

preempts the field of imposing taxes upon retail sales of tangible personal property, the use of tangible personal property, conveyances, and cigarettes, and no county, town, or other municipal subdivision shall have the right to impose taxes of that nature.

Sales Tax—  
State  
preemption—  
Exception.

Sec. 17. Sections 1 through 15 of this act are each added to chapter 67.28 RCW.

Codification  
instructions.

Sec. 18. Sections 1 through 7, chapter 15, Laws of 1965 and RCW 67.28.010 through 67.28.070 are each repealed.

Repeal.

Sec. 19. If any provision of this act, or its application to any municipality, person or circumstance is held invalid, the remainder of this act or the application of the provision to other municipalities, persons or circumstances is not affected.

Severability.

Passed the Senate March 9, 1967.

Passed the House March 8, 1967.

Approved by the Governor March 21, 1967.

---

## CHAPTER 237.

[Substitute Senate Bill No. 52.]

### ADMINISTRATIVE RULES AND PROCEDURE.

AN ACT relating to state government; regulating administrative rules and regulations, and administrative practice and procedure in and before state agencies; prescribing rights, remedies and duties; providing for administrative and judicial hearings and review; amending section 1, chapter 234, Laws of 1959 and RCW 34.04.010; amending section 2, chapter 234, Laws of 1959 and RCW 34.04.020; amending section 6, chapter 234, Laws of 1959 and RCW 34.04.060; amending section 9, chapter 234, Laws of 1959 and RCW 34.04.090; amending section 13, chapter 234, Laws of 1959 and RCW 34.04.130; amending section 15, chapter 234, Laws of 1959, as amended by section 1, chapter 237, Laws of 1963, and RCW 34.04.150; amending section 17, chapter 234, Laws of 1959 and RCW 34.04.910; amending section .03.07, chapter 79, Laws of 1947, as last amended by section 1, chapter 195, Laws of 1963, and RCW 48.03.070; amending section .04.01, chapter 79, Laws of 1947, as amended by section 2,

chapter 195, Laws of 1963, and RCW 48.04.010; amending section .04.04, chapter 79, Laws of 1947 and RCW 48.04.040; amending section .04.09, chapter 79, Laws of 1947 and RCW 48.04.090; amending section 6, chapter 8, Laws of 1955 extraordinary session and RCW 48.52.060; amending section 62, chapter 62, Laws of 1933 extraordinary session and RCW 66.08.150; amending section 82.32.130, chapter 15, Laws of 1961 and RCW 82.32.130; adding new sections to chapter 234, Laws of 1959 and to chapter 34.04 RCW; adding new sections to chapter 15, Laws of 1961 and to chapters 82.32 and 84.08 RCW; repealing section .02.07, chapter 79, Laws of 1947, and RCW 48.02.070; repealing section .03.08, chapter 79, Laws of 1947 and RCW 48.03.080; repealing section .04.08, chapter 79, Laws of 1947 and RCW 48.04.080; repealing section .04.10, chapter 79, Laws of 1947 and RCW 48.04.100; repealing section .04.11, chapter 79, Laws of 1947 and RCW 48.04.110; repealing section .04.12, chapter 79, Laws of 1947 and RCW 48.04.120; repealing section .04.13, chapter 79, Laws of 1947 and RCW 48.04.130; repealing section .04.15, chapter 79, Laws of 1947 and RCW 48.04.150; repealing section .17.58, chapter 79, Laws of 1947 and RCW 48.17.580; repealing section 16, chapter 197, Laws of 1961 and RCW 48.44.190; and providing an effective date.

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

RCW 34.04.010  
amended.

Section 1. Section 1, chapter 234, Laws of 1959 and RCW 34.04.010 are each amended to read as follows:

Administrative  
Procedure  
Act—  
Definitions.

For the purpose of this chapter:

(1) "Agency" means any state board, commission, department, or officer, authorized by law to make rules or to adjudicate contested cases, except those in the legislative or judicial branches.

(2) "Rule" means any agency order, directive or regulation of general applicability (a) the violation of which subjects a person to a penalty or administrative sanction; (b) which establishes, alters or revokes any procedure, practice or requirement relating to agency hearings; (c) which establishes, alters or revokes any qualification or requirement relating to the enjoyment of benefits or privileges

conferred by law; (d) which establishes, alters or revokes any qualifications or standards for the issuance, suspension or revocation of licenses to pursue any commercial activity, trade or profession; or (e) which establishes, alters or revokes any mandatory standards for any product or material which must be met before distribution or sale. The term includes the amendment or repeal of a prior rule, but does not include (i) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public, (ii) declaratory rulings issued pursuant to RCW 34.04.080, as now or hereafter amended, or (iii) speed restrictions for motor vehicles established by the state highway commission.

(3) "Contested case" means a proceeding before an agency in which an opportunity for a hearing before such agency is required by law or constitutional right prior or subsequent to the determination by the agency of the legal rights, duties, or privileges of specific parties. Contested cases shall also include all cases of licensing and rate making in which an application for a license or rate change is denied except as limited by section 23 of this 1967 amendatory act, or a license is revoked, suspended, or modified, or in which the granting of an application is contested by a person having standing to contest under the law or agency rules.

(4) "License" includes the whole or part of any agency permit, certificate, approval, registration, charter, or any form of permission required by law, including agency rule, to engage in any activity, but does not include a license required solely for revenue purposes.

(5) "Licensing" includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or modification of a license.

RCW 34.04.020 amended.

Sec. 2. Section 2, chapter 234, Laws of 1959 and RCW 34.04.020 are each amended to read as follows:

Administrative Procedure Act—Adoption of rules of practice and procedure—Records of decisions, orders and opinions open to public—Exceptions—Effect of failure to comply.

In addition to other rule-making requirements imposed by law:

(1) Each agency shall adopt rules governing the formal and informal procedures prescribed or authorized by this chapter and rules of practice before the agency, together with forms and instructions: *Provided*, That section 12 of this 1967 amendatory act shall apply to agencies which have not adopted comprehensive rules of practice and procedure, in accordance with the provisions of this chapter, prior to July 1, 1967.

(2) To assist interested persons dealing with it, each agency shall adopt as a rule a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information and make submissions or requests. No person shall be required to comply with agency procedure not adopted as a rule as herein required.

(3) To the extent not prohibited by federal law or regulation, nor prohibited for reasons of confidentiality by state law, each agency shall keep on file for public inspection all final orders, decisions and opinions in contested cases and any digest or index to those orders, decisions or opinions prepared by the agency for its own use. No agency order, decision or opinion is valid or effective against any person, nor may it be invoked by the agency for any purpose, unless it is available for public inspection as herein required. This provision is not applicable in favor of any person who has actual knowledge thereof.

New section.

Sec. 3. There is added to chapter 234, Laws of 1959 and to chapter 34.04 RCW, a new section to read as follows:

(1) Prior to the adoption, amendment or repeal of any rule, each agency shall:

Notice of intention to adopt rules—  
Opportunity to submit data  
—Effect of noncompliance.

(a) Give at least twenty days notice of its intended action by filing the notice with the code reviser, mailing the notice to all persons who have made timely request of the agency for advance notice of its rule-making proceedings, and giving public notice as provided in RCW 42.32.010, as now or hereafter amended. Such notice shall include (i) reference to the authority under which the rule is proposed, (ii) a statement of either the terms or substance of the proposed rule or a description of the subjects and issues involved, and (iii) the time when, the place where, and the manner in which interested persons may present their views thereon.

(b) Afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. In case of substantive rules, opportunity for oral hearing must be granted if requested by twenty-five persons, by a governmental subdivision or agency, or by an association having not less than twenty-five members. The agency shall consider fully all written and oral submissions respecting the proposed rule. Upon adoption of a rule, the agency, if requested to do so by an interested person either prior to adoption or within thirty days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

(2) No rule hereafter adopted is valid unless adopted in substantial compliance with this section, or, if an emergency rule designated as such, adopted in substantial compliance with RCW 34.04.030, as now or hereafter amended. In any proceeding a rule cannot be contested on the ground of noncompliance with the procedural requirements of this section, or of RCW 34.04.030, as now or hereafter amended,

after two years have elapsed from the effective date of the rule.

New section.

Sec. 4. There is added to chapter 234, Laws of 1959 and to chapter 34.04 RCW a new section to read as follows:

Administrative Procedure Act—Failure to give notice—Effect.

When twenty days notice of intended action to adopt, amend or repeal a rule has not been filed with the code reviser, as required in section 3 of this 1967 amendatory act, the code reviser shall not publish such rule and such rule shall not be effective for any purpose.

RCW 34.04.060 amended.

Sec. 5. Section 6, chapter 234, Laws of 1959 and RCW 34.04.060 are each amended to read as follows:

Petition for adoption, amendment, repeal of rules—Agency action.

Any interested person may petition an agency requesting the promulgation, amendment, or repeal of any rule. Each agency shall prescribe by rule the form for such petitions and the procedure for their submission, consideration, and disposition. Within thirty days after submission of a petition, or at the next meeting of the agency if it does not meet within thirty days, the agency shall formally consider the petition and shall within thirty days thereafter either deny the petition in writing (stating its reasons for the denial) or initiate rule-making proceedings in accordance with section 3 of this 1967 amendatory act.

RCW 34.04.130 amended.

Sec. 6. Section 13, chapter 234, Laws of 1959 and RCW 34.04.130 are each amended to read as follows:

Administrative Procedure Act—Contested cases—Judicial review.

(1) Any person aggrieved by a final decision in a contested case, whether such decision is affirmative or negative in form, is entitled to judicial review thereof only under the provisions of this 1967 amendatory act, and such person may not use any other procedure to obtain judicial review of a final decision, even though another procedure is provided elsewhere by a special statute or a statute of general application. Where the agency's rules pro-

vide a procedure for rehearing or reconsideration, and that procedure has been invoked, the agency decision shall not be final until the agency shall have acted thereon.

(2) Proceedings for review under this chapter shall be instituted by filing a petition in the superior court, at the petitioner's option, for (a) Thurston county, (b) the county of the petitioner's residence or principal place of business, or (c) in any county where the property owned by the petitioner and affected by the contested decision is located. All petitions shall be filed within thirty days after the service of the final decision of the agency. Copies of the petition shall be served upon the agency and all other parties of record. The court, in its discretion, may permit other interested persons to intervene.

(3) The filing of the petition shall not stay enforcement of the agency decision. Where other statutes provide for stay or supersedeas of an agency decision, it may be stayed by the agency or the reviewing court only as provided therein; otherwise the agency may do so, or the reviewing court may order a stay upon such terms as it deems proper.

(4) Within thirty days after service of the petition, or within such further time as the court may allow, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review; but, by stipulation of all parties to the review proceeding, the record may be shortened. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record when deemed desirable.

(5) The review shall be conducted by the court without a jury and shall be confined to the record, except that in cases of alleged irregularities in procedure before the agency, not shown in the rec-

Administrative Procedure Act—Contested cases—Judicial review.

ord, testimony thereon may be taken in the court. The court shall, upon request, hear oral argument and receive written briefs.

(6) The court may affirm the decision of the agency or remand the case for further proceedings; or it may reverse the decision if the substantial rights of the petitioners may have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a) in violation of constitutional provisions; or
- (b) in excess of the statutory authority or jurisdiction of the agency; or
- (c) made upon unlawful procedure; or
- (d) affected by other error of law; or
- (e) clearly erroneous in view of the entire record as submitted and the public policy contained in the act of the legislature authorizing the decision or order; or
- (f) arbitrary or capricious.

RCW 34.04.150 amended.

Sec. 7. Section 15, chapter 234, Laws of 1959, as amended by section 1, chapter 237, Laws of 1963, and RCW 34.04.150 are each amended to read as follows:

Exclusions from chapter or parts of chapter.

This chapter shall not apply to the state militia, or the board of prison terms and paroles. The provisions of RCW 34.04.090 through 34.04.130 shall not apply to the board of industrial insurance appeals or the state tax commission unless an election is made pursuant to section 18 or 19 of this 1967 amendatory act. All other agencies, whether or not formerly specifically excluded from the provisions of all or any part of the administrative procedure act, shall be subject to the entire act.

**NOTE:** See also section 1, chapter 71, Laws of 1967 ex. sess.

New section.

Sec. 8. There is added to chapter 234, Laws of 1959 and to chapter 34.04 RCW a new section to read as follows:



(1) When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, an existing full, temporary, or provisional license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

Provisions applicable to licenses and licensing.

(2) No revocation, suspension, annulment, modification, or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency gave notice by mail to the licensee of facts or conduct which warrant the intended action, and the licensee was given reasonable opportunity to show compliance with all lawful requirements for the retention of the license. If the agency finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

Sec. 9. Section 9, chapter 234, Laws of 1959 and RCW 34.04.090 are each amended to read as follows:

RCW 34.04.090 amended.

(1) In any contested case all parties shall be afforded an opportunity for hearing after not less than twenty days' notice; but no hearing shall be required until the hearing is demanded unless other statutory provisions or agency rules provide otherwise. The notice shall include:

Administrative Procedure Act—Contested cases—Notice—Hearing—Informal disposition—Record—Findings of fact—Agency's powers.

(a) a statement of the time, place and nature of the proceeding;

(b) a statement of the legal authority and jurisdiction under which the hearing is to be held;

(c) a reference to the particular sections of the statutes and rules involved;

Administrative  
 Procedure  
 Act—Con-  
 tested cases—  
 Notice—Hear-  
 ing—Informal  
 disposition—  
 Record—Find-  
 ings of fact—  
 Agency's  
 powers.

(d) a short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon request a more definite and detailed statement shall be furnished.

(2) Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

(3) Unless precluded by law, informal disposition may also be made of any contested case by stipulation, agreed settlement, consent order, or default.

(4) The record in a contested case shall include:

- (a) all pleadings, motions, intermediate rulings;
- (b) evidence received or considered;
- (c) a statement of matters officially noticed;
- (d) questions and offers of proof, objections, and ruling thereon;
- (e) proposed findings and exceptions;
- (f) any decision, opinion, or report by the officer presiding at the hearing;

(5) Oral proceedings shall be transcribed for the purposes of agency decision pursuant to RCW 34.04.110, as now or hereafter amended, rehearing, or court review. A copy of the record or any part thereof shall be transcribed and furnished to any party to the hearing upon request therefor and payment of the reasonable costs thereof.

(6) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

(7) Each agency shall adopt appropriate rules of procedure for notice and hearing in contested cases.

- (8) Agencies, or their authorized agents, may
  - (a) administer oaths and affirmations, examine

witnesses, and receive evidence, and no person shall be compelled to divulge information which he could not be compelled to divulge in a court of law,

(b) issue subpoenas as provided in section 10 of this 1967 amendatory act,

(c) rule upon offers of proof and receive relevant evidence,

(d) take or cause depositions to be taken pursuant to rules promulgated by the agency, and no person shall be compelled to divulge information which he could not be compelled to divulge by deposition in connection with a court proceeding,

(e) regulate the course of the hearing,

(f) hold conferences for the settlement or simplification of the issues by consent of the parties,

(g) dispose of procedural requests or similar matters,

(h) make decisions or proposals for decisions pursuant to RCW 34.04.110,

(i) take any other action authorized by agency rule consistent with this chapter.

Sec. 10. There is added to chapter 234, Laws of 1959 and to chapter 34.04 RCW a new section to read as follows: New section.

(1) In order to determine the necessity or desirability of adopting, amending, repealing, or otherwise revising a rule or proposed rule, agencies may hold public hearings, subpoena witnesses, administer oaths, take the testimony of any person under oath, and in connection therewith, require the production for examination of any books or papers relating to the subject matter of contemplated regulation. Each agency may make rules as to the issuance of subpoenas by the agency or its authorized agents. This subsection shall not preclude the exercise of subpoena powers for investigative purposes granted agencies by other statutory provisions. Agency hearings and contested cases.

(2) In any contested case after service of notice

Administrative  
Procedure  
Act—Agency  
hearing and  
contested  
cases.

as required in RCW 34.04.090(1), as now or hereafter amended, agencies, their authorized agents, and hearing examiners hearing the case:

(a) Shall issue a subpoena upon the request of any party and, to the extent required by agency rule, upon a statement showing general relevance and reasonable scope of the evidence sought: *Provided, however,* That such subpoena may be issued with like effect by the attorney of record of the party to the contested case in whose behalf the witness is required to appear, and the form of such subpoena in each case may be the same as when issued by the agency except that it shall only be subscribed by the signature of such attorney;

(b) May issue a subpoena upon their own motion.

(3) The subpoena powers created by this section shall be state-wide in effect.

(4) Witnesses in an agency hearing or contested case shall be paid the same fees and allowances, in the same manner and under the same conditions, as provided for witnesses in the courts of this state by chapter 2.40 RCW and by RCW 5.56.010, as now or hereafter amended: *Provided,* That the agency shall have the power to fix the allowance for meals and lodging in like manner as is provided in RCW 5.56.010, as now or hereafter amended, as to courts. Such fees and allowances, and the cost of producing records required to be produced by agency subpoena, shall be paid by the agency or, in a contested case, by the party requesting the issuance of the subpoena.

(5) If an individual fails to obey a subpoena, or obeys a subpoena but refuses to testify when requested concerning any matter under examination or investigation at the hearing, the agency or attorney issuing the subpoena may petition the superior court of the county where the hearing is being con-

ducted for enforcement of the subpoena. The petition shall be accompanied by a copy of the subpoena and proof of service, and shall set forth in what specific manner the subpoena has not been complied with, and shall ask an order of the court to compel the witness to appear and testify before the agency. The court upon such petition shall enter an order directing the witness to appear before the court at a time and place to be fixed in such order and then and there to show cause why he has not responded to the subpoena or has refused to testify. A copy of the order shall be served upon the witness. If it appears to the court that the subpoena was properly issued and that the particular questions which the witness refuses to answer are reasonable and relevant, and in the case of a rule-making hearing that the requested appearance and testimony are necessary to secure information the expected nature of which would reasonably tend to cause the agency to exercise its rule-making authority, the court shall enter an order that the witness appear at the time and place fixed in the order and testify or produce the required papers, and on failing to obey said order the witness shall be dealt with as for contempt of court.

Sec. 11. There is added to chapter 234, Laws of 1959 and to chapter 34.04 RCW a new section to read as follows: New section.

Except upon notice and opportunity for all parties to be present or to the extent required for the disposition of ex parte matters as authorized by law, no hearing examiner or agency or member of an agency presiding in a contested case or preparing a decision, or proposal for decision shall consult with any person or party on any issue of fact or law in the proceeding, except that in analyzing and appraising the record for decision any agency member or hearing examiner may (1) consult with members

Consultation  
by agency  
officer as to  
issues.

Administrative Procedure Act.

of the agency making the decision, (2) have the aid and advice of one or more personal assistants, (3) have the assistance of other employees of the agency who have not participated in the proceeding in any manner, who are not engaged for the agency in any investigative functions in the same or any current factually related case and who are not engaged for the agency in any prosecutory functions.

New section.

Sec. 12. There is added to chapter 234, Laws of 1959 and to chapter 34.04 RCW a new section to read as follows:

Uniform procedural rules.

On or before July 1, 1967, the code reviser shall add to Title 1 of the Washington Administrative Code a new chapter to be known as chapter 1-08 WAC—Uniform Procedural Rules, which shall become effective July 1, 1967, and shall govern the administrative practice and procedure in and before all agencies which have not adopted comprehensive rules of practice and procedure prior to that date. Except for the numbering thereof, such rules shall be identical with the rules contained in WAC 308-08-010 through 308-08-590 as the same existed on January 3, 1966: *Provided*, That in publishing chapter 1-08 WAC the reviser may revise such terms as are used in chapter 308-08 WAC to describe “agency”, “department”, “board”, “commission”, and like terms, so as to enable the use of such rules by multiple agencies.

This section shall not prohibit any such agency from hereafter adopting its own rules of practice and procedure in the manner provided by this chapter, if such agency shall elect to promulgate comprehensive rules on this subject and shall, in the order of adoption, expressly negative any further applicability to such agency of the rules contained in chapter 1-08 WAC.

Sec. 13. There is added to chapter 234, Laws of 1959 and to chapter 34.04 RCW a new section to read as follows:

New section.

The code reviser may prescribe regulations for carrying out the provisions of this chapter relating to the filing and publication of rules and notices of intention to adopt rules, including the form and style to be employed by the various agencies in the drafting of such rules and notices.

Regulations on filing and form of rules and notices.

Sec. 14. There is added to chapter 234, Laws of 1959 and to chapter 34.04 RCW a new section to read as follows:

New section.

After the rules of an agency have been published by the reviser:

Style, format and numbering of rules-- Agency compliance.

(1) All agency orders amending or rescinding such rules, or creating new rules, shall be formulated in accordance with the style, format, and numbering system of the Washington Administrative Code, and

(2) Any subsequent printing or reprinting of such rules shall be printed in the style and format (including the numbering system) of such code.

Sec. 15. Section .03.07, chapter 79, Laws of 1947, as last amended by section 1, chapter 195, Laws of 1963, and RCW 48.03.070 are each amended to read as follows:

RCW 48.03.070 amended.

(1) The commissioner may take depositions, may subpoena witnesses or documentary evidence, administer oaths, and examine under oath any individual relative to the affairs of any person being examined, or relative to the subject of any hearing or investigation: *Provided*, That the provisions of section 10 of this 1967 amendatory act shall apply in lieu of the provisions of this section as to subpoenas relative to hearings in rule-making and contested case proceedings.

Administrative Procedure Act--Hearings before the insurance commissioner --Power of the commissioner.

(2) The subpoena shall be effective if served

Administrative Procedure Act—Hearings before the insurance commissioner—Power of the commissioner.

within the state of Washington and shall be served in the same manner as if issued from a court of record.

(3) Witness fees and mileage, if claimed, shall be allowed the same as for testimony in a court of record. Witness fees, mileage, and the actual expense necessarily incurred in securing attendance of witnesses and their testimony shall be itemized, and shall be paid by the person as to whom the examination is being made, or by the person if other than the commissioner, at whose request the hearing is held.

(4) Enforcement of subpoenas shall be in accord with subsection (5) of section 10 of this 1967 amendatory act.

RCW 48.04.010 amended.

Sec. 16. Section .04.01, chapter 79, Laws of 1947, as amended by section 2, chapter 195, Laws of 1963, and RCW 48.04.010 are each amended to read as follows:

Insurance hearings.

(1) The commissioner may hold a hearing for any purpose within the scope of this code as he may deem necessary. He shall hold a hearing

(a) if required by any provision of this code, or

(b) upon written demand for a hearing made by any person aggrieved by any act, threatened act, or failure of the commissioner to act, if such failure is deemed an act under any provision of this code, or by any report, promulgation, or order of the commissioner other than an order on a hearing of which such person was given actual notice or at which such person appeared as a party, or order pursuant to the order on such hearing.

(2) Any such demand for a hearing shall specify in what respects such person is so aggrieved and the grounds to be relied upon as basis for the relief to be demanded at the hearing.

(3) Unless a person aggrieved by a written order of the commissioner demands a hearing thereon



within ninety days after receiving notice of such order, the right to such hearing shall conclusively be deemed to have been waived.

(4) The commissioner shall hold such hearing demanded within thirty days after his receipt of the demand, unless postponed by mutual consent.

Sec. 17. Section .04.04, chapter 79, Laws of 1947 and RCW 48.04.040 are each amended to read as follows:

RCW 48.04.040  
amended.

(1) The commissioner shall, not less than ten days in advance, give notice of a hearing to each person to be affected by the hearing.

Insurance  
hearings  
—Notice.

(2) If under subsection (1) of this section notice of a hearing would be required to be given to more than one hundred persons, in lieu of the notice provided for in such paragraph and for the purposes of RCW 48.30.010 only, the commissioner may give notice of the hearing by publishing the notice in five daily newspapers at least once each week during the four weeks immediately preceding the week in which the hearing is to be held. One of such newspapers must be published in the eastern part of this state; one of such newspapers must be published in the general central or south central portion of this state; one of such newspapers must be published in the general northwestern portion of this state; one of such newspapers must be published in the general west central portion of this state, and one of such newspapers must be published in the general southwestern portion of this state.

(3) Any notice required by this section shall comply with the provisions of section 9 of this 1967 amendatory act.

Sec. 18. Section .04.09, chapter 79, Laws of 1947 and RCW 48.04.090 are each amended to read as follows:

RCW 48.04.090  
amended.

(1) Within thirty days after the termination of

Administrative  
Procedure  
Act—Insurance  
hearing—  
Order of the  
commissioner.

a hearing the commissioner shall make his order thereon and shall, subject to subsection (4) of this section, give a copy of the order, with accompanying findings of fact and conclusions of law, as provided in RCW 34.04.120, as now or hereafter amended.

(2) The order shall contain, in addition to the requirements of RCW 34.04.120, as now or hereafter amended:

(a) A concise statement of the action taken.

(b) The effective date of such action.

(c) A designation of the provisions of this code pursuant to which the action is taken.

(d) A concise statement of the findings of the commissioner in support of the action.

(3) An order on hearing may confirm, modify, or nullify action taken under an existing order, or may constitute the taking of any new action coming within the scope of the notice of such hearing.

(4) If notice of such hearing was given by publication as provided for in RCW 48.04.040, the commissioner may publish the order on hearing once each week for four successive weeks in the same newspapers in which such notice was published, the first such publication to be made on the date of the order. Such publication of the order on hearing shall be in lieu of the requirement that a copy of such order be given to each person as provided in subsection (1) of this section.

RCW 48.52.060  
amended.

Sec. 19. Section 6, chapter 8, Laws of 1955 extraordinary session and RCW 48.52.060 are each amended to read as follows:

Employee  
welfare trust  
funds—Hear-  
ings and  
review.

Any person aggrieved by any act, threatened act, or failure of the commissioner to act shall have the right to a hearing and review thereof as provided in chapters 34.04 and 48.04 RCW.

RCW 82.32.130  
amended.

Sec. 20. Section 82.32.130, chapter 15, Laws of 1961 and RCW 82.32.130 are each amended to read as follows:

Any notice or order required by this title to be mailed to any taxpayer shall be sent by mail, addressed to the address of the taxpayer as shown by the records of the tax commission, or, if no such address is shown, to such address as the commission is able to ascertain by reasonable effort. Failure of the taxpayer to receive such notice or order mailed shall not release the taxpayer from any tax or any increases or penalties thereon.

Taxation—  
Notices to taxpayer, method of mailing.

Sec. 21. There is added to chapter 15, Laws of 1961 and to chapter 82.32 RCW a new section to read as follows:

New section.

In a contested case arising under RCW 82.32.160 or 82.32.170, as now or hereafter amended, the taxpayer may elect, within thirty days after the date of the petition provided for in said sections, to have the contested case determined in accordance with the provisions of RCW 34.04.090 through 34.04.130, as now or hereafter amended. The election shall be made by service of written notice, in the same manner as the petition, of such election upon the tax commission. Nothing in this section shall be held to modify RCW 82.32.150, as now or hereafter amended. If such an election is made, judicial review of the tax commission decision may be obtained solely in accordance with the provisions of RCW 34.04.130, as now or hereafter amended, notwithstanding the provisions of RCW 82.32.180, as now or hereafter amended.

Taxation—  
Contested cases—Taxpayers election of procedure.

**NOTE:** See also section 2, chapter 71, Laws of 1967 ex. sess.

Sec. 22. There is added to chapter 15, Laws of 1961 and to chapter 84.08 RCW a new section to read as follows:

New section.

In a contested case arising under RCW 84.08.130 or 84.08.140, as now or hereafter amended, the taxpayer may elect, within thirty days after the date of the filing with the county auditor of the notice of appeal or the complaint provided for in said sec-

Administrative Procedure Act—Taxation—Taxpayer election of procedure.

Administrative Procedure Act—Taxation—Taxpayer election of procedure.

tions, to have the contested case determined in accordance with the provisions of RCW 34.04.090 through 34.04.130, as now or hereafter amended. The election shall be made by service of written notice, in the same manner as written notice would be served under section 21 of this 1967 amendatory act, of such election upon the tax commission. Upon receipt of such notice, the commission shall promptly notify both the county and the taxpayer that such election has been made.

**NOTE: See also section 2, chapter 71, Laws of 1967 ex. sess.**

RCW 66.08.150 amended.

Sec. 23. Section 62, chapter 62, Laws of 1933 extraordinary session and RCW 66.08.150 are each amended to read as follows:

Liquor control board—Actions relating to licenses—Opportunity for hearing.

The action, order or decision of the board as to any denial of an application for the reissuance of a permit or license or as to any revocation, suspension, or modification of any permit or license shall be a contested case and subject to the applicable provisions of chapter 34.04 RCW as amended by this 1967 amendatory act.

(1) An opportunity for a hearing may be provided an applicant for the reissuance of a permit or license prior to the disposition of the application, and if no such opportunity for a prior hearing is provided then an opportunity for a hearing to reconsider the application must be provided the applicant.

(2) An opportunity for a hearing must be provided a permittee or licensee prior to a revocation or modification of any permit or license and, except as provided in subsection (4) of this section, prior to the suspension of any permit or license.

(3) No hearing shall be required until demanded by the applicant, permittee, or licensee.

(4) The board may summarily suspend a license or permit for a period of up to thirty days without a prior hearing if it finds that public health, safety or welfare imperatively require emergency

action, and incorporates a finding to that effect in its order; and proceedings for revocation or other action must be promptly instituted and determined.

Sec. 24. There is added to chapter 234, Laws of 1959 and to chapter 34.04 RCW a new section to read as follows:

New section.

Nothing in the Administrative Procedure Act shall be held to diminish the constitutional rights of any person or to limit or repeal additional requirements imposed by statute or otherwise recognized by law. Except as otherwise required by law, all requirements or privileges relating to evidence or procedure shall apply equally to agencies and persons. Every agency is granted all authority necessary to comply with the requirements of the Administrative Procedure Act through the issuance of rules or otherwise. No subsequent legislation shall be held to supersede or modify the provisions of the Administrative Procedure Act or its applicability to any agency except to the extent that such legislation shall do so expressly.

Savings—Authority of agencies to comply with chapter—Effect of subsequent legislation.

Sec. 25. Section 17, chapter 234, Laws of 1959 and RCW 34.04.910 are each amended to read as follows:

RCW 34.04.910 amended.

All acts or parts of acts, whether special or comprehensive in nature, which are inconsistent with the provisions of this chapter, whether in the review procedures which they establish or otherwise, are hereby repealed, but such repeal shall not affect pending proceedings.

General repeal and savings.

Sec. 26. If any part of this 1967 amendatory act shall be found to be in conflict with federal requirements which are a condition precedent to the allocation of federal funds to the state, such conflicting part of this 1967 amendatory act is hereby declared to be inoperative solely to the extent of such conflict and with respect to the agencies directly affected, and such findings or determination shall not affect

Construction.

the operation of the remainder of this 1967 amendatory act in its application to the agencies concerned.

## Severability.

Sec. 27. If any provision of this 1967 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1967 amendatory act, or the application of the provision to other persons or circumstances is not affected.

## Repeal.

Sec. 28. The following acts and parts of acts are each hereby repealed:

(1) (a) Sections .02.07, .03.08, .04.08, .04.10, .04.11, .04.12, .04.13, .04.15 and .17.58, chapter 79, Laws of 1947; and

(b) Section 16, chapter 197, Laws of 1961.

(2) RCW 48.02.070, 48.03.080, 48.04.080, 48.04.100, 48.04.110, 48.04.120, 48.04.130, 48.04.150, 48.17.580 and 48.44.190.

## Effective date.

Sec. 29. This act shall take effect on July 1, 1967.

Passed the Senate March 9, 1967.

Passed the House March 8, 1967.

Approved by the Governor March 21, 1967.

---

 CHAPTER 238.

[Substitute Senate Bill No. 46.]

## WASHINGTON CLEAN AIR ACT.

AN ACT relating to air pollution; amending section 3, chapter 232, Laws of 1957 and RCW 70.94.030; amending section 4, chapter 232, Laws of 1957 and RCW 70.94.040; amending section 7, chapter 232, Laws of 1957 and RCW 70.94.070; amending section 10, chapter 232, Laws of 1957 and RCW 70.94.100; amending section 11, chapter 232, Laws of 1957, as amended by section 1, chapter 27, Laws of 1963 and RCW 70.94.110; amending section 12, chapter 232, Laws of 1957 and RCW 70.94.120; amending section 13, chapter 232, Laws of 1957 and RCW 70.94.130; amending section 17, chapter 232, Laws of 1957 and RCW 70.94.170; amending section 20, chapter 232, Laws of 1957 and RCW 70.94.200; amending section 23, chapter 232, Laws of 1957 and RCW 70.94.230; amending section 24,