

agents is limited to the laws and rules of the commission pertaining to wildlife or to the management, operation, maintenance, or use of or conduct on real property used, owned, leased, or controlled by the department and other statutes as prescribed by the legislature. However, when acting within the scope of these duties and when an offense occurs in the presence of the wildlife agent who is not an ex officio wildlife agent, the wildlife agent may enforce all criminal laws of the state. The wildlife agent must have successfully completed the basic law enforcement academy course sponsored by the criminal justice training commission, or a supplemental course in criminal law enforcement as approved by the department and the criminal justice training commission and provided by the department or the criminal justice training commission, prior to enforcing the criminal laws of the state.

(2) Wildlife agents are peace officers.

(3) Any liability or claim of liability which arises out of the exercise or alleged exercise of authority by a wildlife agent rests with the department of game unless the wildlife agent acts under the direction and control of another agency or unless the liability is otherwise assumed under a written agreement between the department of game and another agency.

(4) Wildlife agents may serve and execute warrants and processes issued by the courts.

Passed the House March 13, 1985.

Passed the Senate April 11, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 156

[Substitute House Bill No. 155]

NOTARIES PUBLIC

AN ACT Relating to notaries public; amending RCW 43.07.035; adding a new chapter to Title 42 RCW; creating new sections; repealing RCW 42.28.010, 42.28.020, 42.28.030, 42.28.035, 42.28.040, 42.28.050, 42.28.060, 42.28.070, 42.28.090, 42.28.100, 42.28.110, 42.28.120, 42.28.130, 43.06.100, 43.131.299, and 43.131.300; providing an effective date; and prescribing penalties.

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

NEW SECTION. Sec. 1. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Director" means the director of licensing of the state of Washington or the director's designee.

(2) "Notarial act" and "notarization" mean: (a) Taking an acknowledgment; (b) administering an oath or affirmation; (c) taking a verification upon oath or affirmation; (d) witnessing or attesting a signature; (e) certifying or attesting a copy; (f) receiving a protest of a negotiable instrument;

(g) certifying that an event has occurred or an act has been performed; and
(h) any other act that a notary public of this state is authorized to perform.

(3) "Notary public" and "notary" mean any person appointed to perform notarial acts in this state.

(4) "Acknowledgment" means a statement by a person that the person has executed an instrument as the person's free and voluntary act for the uses and purposes stated therein and, if the instrument is executed in a representative capacity, a statement that the person signed the document with proper authority and executed it as the act of the person or entity represented and identified therein.

(5) "Verification upon oath or affirmation" means a statement by a person who asserts it to be true and makes the assertion upon oath or affirmation administered in accordance with chapter 5.28 RCW.

(6) "In a representative capacity" means:

(a) For and on behalf of a corporation, partnership, trust, or other entity, as an authorized officer, agent, partner, trustee, or other representative;

(b) As a public officer, personal representative, guardian, or other representative, in the capacity recited in the instrument;

(c) As an attorney in fact for a principal; or

(d) In any other capacity as an authorized representative of another.

(7) "Serious crime" means any felony or any lesser crime, a necessary element of which, as determined by the statutory or common law definition of such crime, involves interference with the administration of justice, false swearing, misrepresentation, fraud, the unauthorized practice of law, deceit, bribery, extortion, misappropriation, theft, or an attempt, a conspiracy, or the solicitation of another to commit a serious crime.

NEW SECTION. Sec. 2. (1) The director may, upon application, appoint to be a notary public in this state, any person who:

(a) Is at least eighteen years of age;

(b) Resides in Washington state, or resides in an adjoining state and is regularly employed in Washington state or carries on business in Washington state; and

(c) Can read and write English.

(2) Each application shall be accompanied by endorsements by at least three residents of this state of the age of eighteen or more, who are not relatives of the applicant, in the following form:

I, (name of endorser) , being a person eligible to vote in the state of Washington, believe the applicant for a notary public appointment, (applicant's name) , who is not related to me, to be a person of integrity and good moral character and capable of performing notarial acts.

(Endorser's signature and address, with date of signing)

certificate may be signed in facsimile by the governor, the secretary of state, and the director or the director's designee. The certificate shall bear a printed seal of the state of Washington.

NEW SECTION. Sec. 5. Every person appointed as a notary public in this state shall procure a seal or stamp, on which shall be engraved or impressed the words "Notary Public" and "State of Washington," the date the appointment expires, the person's surname, and at least the initials of the person's first and middle names. The director shall prescribe by rule the size and form or forms of the seal or stamp. It is unlawful for any person intentionally to manufacture, give, sell, procure or possess a seal or stamp evidencing the current appointment of a person as a notary public until the director has delivered a certificate evidencing the appointment as provided for in section 4 of this 1985 act.

NEW SECTION. Sec. 6. A person appointed as a notary public by the director may perform notarial acts in this state for a term of four years, unless:

- (1) The notarial appointment has been revoked under section 13 or 14 of this act; or
- (2) The notarial appointment has been resigned.

NEW SECTION. Sec. 7. A person who has received an appointment as a notary public may be reappointed without the endorsements required in section 2(2) of this act if the person submits a new application before the expiration date of the current appointment.

NEW SECTION. Sec. 8. A notary public is authorized to perform notarial acts in this state. Notarial acts shall be performed in accordance with the following, as applicable:

(1) In taking an acknowledgment, a notary public must determine and certify, either from personal knowledge or from satisfactory evidence, that the person appearing before the notary public and making the acknowledgment is the person whose true signature is on the document.

(2) In taking a verification upon oath or affirmation, a notary public must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the notary public and making the verification is the person whose true signature is on the statement verified.

(3) In witnessing or attesting a signature, a notary public must determine, either from personal knowledge or from satisfactory evidence, that the signature is that of the person appearing before the notary public and named in the document.

(4) In certifying or attesting a copy of a document or other item, a notary public must determine that the proffered copy is a full, true, and accurate transcription or reproduction of that which was copied.

(5) In making or noting a protest of a negotiable instrument, a notary public must determine the matters set forth in RCW 62A.3-509.

(6) In certifying that an event has occurred or an act has been performed, a notary public must determine the occurrence or performance either from personal knowledge or from satisfactory evidence based upon the oath or affirmation of a credible witness personally known to the notary public.

(7) A notary public has satisfactory evidence that a person is the person described in a document if that person: (a) Is personally known to the notary public; (b) is identified upon the oath or affirmation of a credible witness personally known to the notary public; or (c) is identified on the basis of identification documents.

(8) The signature and seal or stamp of a notary public are prima facie evidence that the signature of the notary is genuine and that the person is a notary public.

(9) A notary public is disqualified from performing a notarial act when the notary is a signer of the document which is to be notarized.

NEW SECTION. Sec. 9. (1) A notarial act by a notary public must be evidenced by a certificate signed and dated by a notary public. The certificate must include the name of the jurisdiction in which the notarial act is performed and the title of the notary public or other notarial officer and shall be accompanied by an impression of the official seal or stamp. It shall not be necessary for a notary public in certifying an oath to be used in any of the courts in this state, to append an impression of the official seal or stamp. If the notarial officer is a notary public, the certificate shall also indicate the date of expiration of such notary public's appointment, but omission of that information may subsequently be corrected.

(2) A certificate of a notarial act is sufficient if it meets the requirements of subsection (1) of this section and it:

(a) Is in the short form set forth in section 10 of this act;

(b) Is in a form otherwise permitted or prescribed by the laws of this state;

(c) Is in a form prescribed by the laws or regulations applicable in the place in which the notarial act was performed; or

(d) Is in a form that sets forth the actions of the notary public and the described actions are sufficient to meet the requirements of the designated notarial act.

If any law of this state specifically requires a certificate in a form other than that set forth in section 10 of this act in connection with a form of document or transaction, the certificate required by such law shall be used for such document or transaction.

(3) By executing a certificate of a notarial act, the notary public certifies that he or she has made the determinations required by section 8 of this act.

(4) A notary public's seal or stamp shall be the exclusive property of the notary public, shall not be used by any other person, and shall not be

surrendered to an employer upon termination of employment, regardless of whether the employer paid for the seal or for the notary's bond or appointment fees.

NEW SECTION. Sec. 10. The following short forms of notarial certificates are sufficient for the purposes indicated, if completed with the information required by this section:

(1) For an acknowledgment in an individual capacity:

State of Washington

County of _____

I certify that I know or have satisfactory evidence that (name of person) signed this instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____

(Signature of notary public)

(Seal or stamp)

Title
My appointment expires _____

(2) For an acknowledgment in a representative capacity:

State of Washington

County of _____

I certify that I know or have satisfactory evidence that (name of person) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the (type of authority, e.g., officer, trustee, etc.) of (name of party on behalf of whom instrument was executed) to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

(Signature of notary public)

(Seal or stamp)

Title
My appointment expires _____

(3) For a verification upon oath or affirmation:

State of Washington

County of _____

Signed and sworn to (or affirmed) before me on (date) by (name of person making statement) .

(Seal or stamp)

(Signature of notary public)

Title
My appointment expires _____

(4) For witnessing or attesting a signature:

State of Washington
County of _____

Signed or attested before me on _____ by _____.

(Seal or stamp)

(Signature of notary public)

Title
My appointment expires _____

(5) For attestation of a copy of a document:

State of Washington
County of _____

I certify that this is a true and correct copy of a document in the possession of _____ as of this date.

Dated: _____

(Seal or stamp)

(Signature of notary public)

Title
My appointment expires _____

(6) For certifying the occurrence of an event or the performance of an act:

State of Washington
County of _____

I certify that the event or act described in this document has occurred or been performed.

(Seal or stamp)

(Signature of notary public)

Title

My appointment expires _____

NEW SECTION. Sec. 11. The illegibility of any wording, writing, or marking required under this chapter does not in and of itself affect the validity of a document or transaction.

NEW SECTION. Sec. 12. (1) The director shall establish by rule the maximum fees that may be charged by notaries public for various notarial services.

(2) A notary public need not charge fees for notarial acts.

NEW SECTION. Sec. 13. (1) A notarial act has the same effect under the law of this state as if performed by a notary public of this state, if performed in another state, commonwealth, territory, district, or possession of the United States by any of the following persons:

(a) A notary public of that jurisdiction;

(b) A judge, clerk, or deputy clerk of a court of that jurisdiction; or

(c) Any other person authorized by the law of that jurisdiction to perform notarial acts.

Notarial acts performed in other jurisdictions of the United States under federal authority as provided in section 14 of this act have the same effect as if performed by a notarial officer of this state.

(2) The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

(3) The signature and title of an officer listed in subsection (1) (a) and (b) of this section conclusively establish the authority of a holder of that title to perform a notarial act.

NEW SECTION. Sec. 14. (1) A notarial act has the same effect under the law of this state as if performed by a notary public of this state if performed by any of the following persons under authority granted by the law of the United States:

(a) A judge, clerk, or deputy clerk of a court;

(b) A commissioned officer in active service with the military forces of the United States;

(c) An officer of the foreign service or consular agent of the United States; or

(d) Any other person authorized by federal law to perform notarial acts.

(2) The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

(3) The signature and title or rank of an officer listed in subsection (1) (a), (b), and (c) of this section conclusively establish the authority of a holder of that title to perform a notarial act.

NEW SECTION. Sec. 15. (1) A notarial act has the same effect under the law of this state as if performed by a notary public of this state if performed within the jurisdiction of and under authority of a foreign nation or its constituent units or a multinational or international organization by any of the following persons:

(a) A notary public or notary;
(b) A judge, clerk, or deputy clerk of a court of record; or
(c) Any other person authorized by the law of that jurisdiction to perform notarial acts.

(2) An "apostille" in the form prescribed by the Hague Convention of October 5, 1961, conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the designated office.

(3) A certificate by a foreign service or consular officer of the United States stationed in the nation under the jurisdiction of which the notarial act was performed, or a certificate by a foreign service or consular officer of that nation stationed in the United States, is prima facie evidence of the authenticity or validity of the notarial act set forth in the certificate.

(4) A stamp or seal of the person performing the notarial act is prima facie evidence that the signature is genuine and that the person holds that designated title.

(5) A stamp or seal of an officer listed in subsection (1) (a) or (b) of this section is prima facie evidence that a person with that title has authority to perform notarial acts.

(6) If the title of officer and indication of authority to perform notarial acts appears either in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

NEW SECTION. Sec. 16. (1) A notary public commits official misconduct when he or she signs a certificate evidencing a notarial act, knowing that the contents of the certificate are false.

(2) A notary public who commits an act of official misconduct shall be guilty of a gross misdemeanor.

(3) Any person not appointed as a notary public who acts as or otherwise impersonates a notary public shall be guilty of a gross misdemeanor.

NEW SECTION. Sec. 17. (1) The director may revoke the appointment of any notary public for any reason for which appointment may be denied under section 3 of this act.

(2) The director shall revoke the appointment of a notary public upon a judicial finding of incompetency of the notary public. If a notary public is found to be incompetent, his or her guardian or conservator shall within

thirty days of such finding mail or deliver to the director a letter of resignation on behalf of the notary public.

(3) A notary public may voluntarily resign by mailing or delivering to the director a letter of resignation.

NEW SECTION. Sec. 18. (1) The authenticity of the notarial seal and official signature of a notary public of this state may be evidenced by:

(a) A certificate of authority from the director or the secretary of state; or

(b) An apostille in the form prescribed by the Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents of October 5, 1961.

(2) An apostille as specified by the Hague Convention shall be attached to any document requiring authentication that is sent to a nation that has signed and ratified the Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents.

Sec. 19. Section 190, chapter 35, Laws of 1982 and RCW 43.07.035 are each amended to read as follows:

The secretary of state shall have the authority to enter into a memorandum of agreement or contract with any agency of state government or private entity to provide for the performance of any of the secretary of state's services or duties under the various corporation statutes of this state (~~or under chapter 42.28 RCW~~).

NEW SECTION. Sec. 20. On or before January 1, 1986, the director shall adopt rules to carry out this act. Such rules shall include but shall not be limited to rules concerning applications for appointment, application and renewal fees, fees chargeable for notarial services, the replacement of lost or stolen seals or stamps, changes of names or addresses of notaries, resignations of notaries, appeals of denials and revocations of appointments, and issuance of evidences of authenticity of notarial seals and signatures.

NEW SECTION. Sec. 21. Nothing in this act may be interpreted to revoke any notary public appointment or commission existing on the effective date of this act. This act does not terminate, or in any way modify, any liability, civil or criminal, which exists on the effective date of this act. A notarial act performed before the effective date of this act is not affected by this act.

NEW SECTION. Sec. 22. Records relating to the appointment and commissioning of notaries public that are in the custody of county clerks of this state on the effective date of this act shall be transferred to the director of licensing on or before December 31, 1985. Such records may be archived by the director.

NEW SECTION. Sec. 23. Sections 1, 8, 9, 10, 13, 14, and 15 of this act shall be applied and construed to effectuate their general purpose to

make the law uniform with respect to the subject of this act among states enacting such sections of this act.

NEW SECTION. Sec. 24. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 25. Sections 1 through 18, and 23 of this act shall constitute a new chapter in Title 42 RCW entitled "Notaries Public."

NEW SECTION. Sec. 26. The following acts or parts of acts are each repealed:

(1) Section 1, page 473, Laws of 1890, section 1, chapter 137, Laws of 1907, section 1, chapter 6, Laws of 1937 and RCW 42.28.010;

(2) Section 1, page 52, Laws of 1862, section 1, page 501, Laws of 1863, section 1, page 375, Laws of 1869, section 3, page 467, Laws of 1873, section 2615, Code of 1881, section 2, page 473, Laws of 1890 and RCW 42.28.020;

(3) Section 3, page 473, Laws of 1890, section 1, chapter 85, Laws of 1975 1st ex. sess., section 1, chapter 314, Laws of 1981 and RCW 42.28-.030;

(4) Section 5, chapter 85, Laws of 1975 1st ex. sess. and RCW 42.28-.035;

(5) Section 4, page 474, Laws of 1890 and RCW 42.28.040;

(6) Section 1, chapter 32, Laws of 1913 and RCW 42.28.050;

(7) Section 5, page 474, Laws of 1890, section 2, chapter 85, Laws of 1975 1st ex. sess. and RCW 42.28.060;

(8) Section 6, page 474, Laws of 1890, section 3, chapter 85, Laws of 1975 1st ex. sess. and RCW 42.28.070;

(9) Section 1, chapter 56, Laws of 1907, section 7, chapter 51, Laws of 1951, section 4, chapter 85, Laws of 1975 1st ex. sess., section 1, chapter 214, Laws of 1983 and RCW 42.28.090;

(10) Section 10, page 255, Laws of 1877, section 2623, Code of 1881, section 9, page 475, Laws of 1890 and RCW 42.28.100;

(11) Section 10, page 476, Laws of 1890, section 1, chapter 97, Laws of 1943 and RCW 42.28.110;

(12) Section 1, page 90, Laws of 1890, section 1, page 91, Laws of 1890 and RCW 42.28.120;

(13) Section 2, page 90, Laws of 1890 and RCW 42.28.130;

(14) Section 43.06.100, chapter 8, Laws of 1965 and RCW 43.06.100;

(15) Section 23, chapter 197, Laws of 1983 and RCW 43.131.299; and

(16) Section 49, chapter 197, Laws of 1983 and RCW 43.131.300.

NEW SECTION. Sec. 27. Sections 1 through 19, 21, and 23 through 26 shall take effect on January 1, 1986.

Passed the House April 12, 1985.

Passed the Senate April 8, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 157

[House Bill No. 156]

MOTOR VEHICLES—PROOF OF FINANCIAL RESPONSIBILITY—LAPSE—
RESUSPEND OR REREVOKE DRIVING PRIVILEGE

AN ACT Relating to motor vehicle financial responsibility; and amending RCW 46.29.280.

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

Sec. 1. Section 28, chapter 169, Laws of 1963 as amended by section 64, chapter 136, Laws of 1979 ex. sess. and RCW 46.29.280 are each amended to read as follows:

Whenever, under any law of this state, the license of any person is suspended or revoked by reason of a conviction, forfeiture of bail, or finding that a traffic infraction has been committed, the suspension or revocation hereinbefore required shall remain in effect and the department shall not issue to such person any new or renewal of license until permitted under the motor vehicle laws of this state, and not then unless and until such person shall give and thereafter maintain proof of financial responsibility for the future. Upon receiving notice of the termination or cancellation of proof of financial responsibility for the future, the department shall resuspend or rerevoke the person's driving privilege until the person again gives and thereafter maintains proof of financial responsibility for the future.

Passed the House February 27, 1985.

Passed the Senate April 12, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 158

[Engrossed House Bill No. 1021]

PESTICIDE CONTROL ACT—VIOLATIONS—CIVIL PENALTIES AND
ENFORCEMENT

AN ACT Relating to enforcement of pesticide control; amending RCW 15.58.260 and 17.21.050; adding a new section to chapter 15.58 RCW; adding a new section to chapter 17.21 RCW; and prescribing penalties.

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