

government and its existing public institutions, and shall take effect immediately.

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CHAPTER 344

[Engrossed Substitute Senate Bill No. 5502]

MOTOR VEHICLE WARRANTIES

AN ACT Relating to new motor vehicle warranties; amending RCW 19.118.050; adding new sections to chapter 19.118 RCW; adding a new section to chapter 82.32 RCW; creating new sections; repealing RCW 19.118.020, 19.118.030, 19.118.040, and 19.118.060; prescribing penalties; making an appropriation; providing effective dates; providing an expiration date; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature recognizes that a new motor vehicle is a major consumer purchase and that a defective motor vehicle is likely to create hardship for, or may cause injury to, the consumer. The legislature further recognizes that good cooperation and communication between a manufacturer and a new motor vehicle dealer will considerably increase the likelihood that a new motor vehicle will be repaired within a reasonable number of attempts.

It is the intent of the legislature to ensure that the consumer is made aware of his or her rights under this chapter and is not refused information, documents, or service that would otherwise obstruct the exercise of his or her rights.

In enacting these comprehensive measures, it is the intent of the legislature to create the proper blend of private and public remedies necessary to enforce this chapter, such that a manufacturer will be sufficiently induced to take necessary steps to improve quality control at the time of production or provide better warranty service for the new motor vehicles that it sells in this state.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means new motor vehicle arbitration board.

(2) "Collateral charges" means any sales-related charges including but not limited to sales tax, arbitration service fees, license fees, registration fees, title fees, finance charges, insurance costs, transportation charges, dealer preparation charges, or any other charges for service contracts, undercoating, rustproofing, or factory installed options.

(3) "Condition" means a general problem that results from a defect or malfunction of one or more parts, or their improper installation by the manufacturer, its agents, or the new motor vehicle dealer.

(4) "Consumer" means any person who has entered into an agreement or contract for the transfer, lease, or purchase of a new motor vehicle, other than for purposes of resale or sublease, during the duration of the warranty period defined under this section.

(5) "Court" means the superior court in the county where the consumer resides, except if the consumer does not reside in this state, then the superior court in the county where an arbitration hearing or determination was conducted or made pursuant to this chapter.

(6) "Incidental costs" means any reasonable expenses incurred by the consumer in connection with the repair of the new motor vehicle, including any towing charges and the costs of obtaining alternative transportation.

(7) "Manufacturer" means any person engaged in the business of constructing or assembling new motor vehicles or engaged in the business of importing new motor vehicles into the United States for the purpose of selling or distributing new motor vehicles to new motor vehicle dealers.

(8) "New motor vehicle" means any new self-propelled vehicle primarily designed for the transportation of persons or property over the public highways that was leased or purchased in this state and registered in this state, but does not include vehicles purchased or leased by a business as part of a fleet of ten or more vehicles. If the motor vehicle is a motor home, this chapter shall apply to the self-propelled vehicle and chassis, but does not include those portions of the vehicle designated, used, or maintained primarily as a mobile dwelling, office, or commercial space. The term "new motor vehicle" does not include motorcycles or trucks with nineteen thousand pounds or more gross vehicle weight rating. The term "new motor vehicle" includes a demonstrator or lease-purchase vehicle as long as a manufacturer's warranty was issued as a condition of sale.

(9) "New motor vehicle dealer" means a person who holds a dealer agreement with a manufacturer for the sale of new motor vehicles, who is engaged in the business of purchasing, selling, servicing, exchanging, or dealing in new motor vehicles, and who is licensed as a dealer by the state of Washington.

(10) "Nonconformity" means a defect, serious safety defect, or condition that substantially impairs the use, value, or safety of a new motor vehicle, but does not include a defect or condition that is the result of abuse, neglect, or unauthorized modification or alteration of the new motor vehicle.

(11) "Purchase price" means the cash price of the new motor vehicle appearing in the sales agreement or contract, including any allowance for a trade-in vehicle.

(12) "Reasonable offset for use" means an amount directly attributable to use by the consumer before repurchase or replacement by the manufacturer. The reasonable offset for use shall be computed by the number of miles that the vehicle traveled before the manufacturer's acceptance of the vehicle upon repurchase or replacement multiplied by the purchase price, and divided by one hundred thousand.

(13) "Reasonable number of attempts" means the definition provided in section 4 of this act.

(14) "Replacement motor vehicle" means a new motor vehicle that is identical or reasonably equivalent to the motor vehicle to be replaced, as the motor vehicle to be replaced existed at the time of purchase.

(15) "Serious safety defect" means a life-threatening malfunction or nonconformity that impedes the consumer's ability to control or operate the new motor vehicle for ordinary use or reasonable intended purposes or creates a risk of fire or explosion.

(16) "Substantially impair" means to render the new motor vehicle unreliable, or unsafe for ordinary use, or to diminish the resale value of the new motor vehicle below the average resale value for comparable motor vehicles.

(17) "Warranty" means any implied warranty, any written warranty of the manufacturer, or any affirmation of fact or promise made by the manufacturer in connection with the sale of a new motor vehicle that becomes part of the basis of the bargain. The term "warranty" pertains to the obligations of the manufacturer in relation to materials, workmanship, and fitness of a new motor vehicle for ordinary use or reasonably intended purposes throughout the duration of the warranty period as defined under this section.

(18) "Warranty period" means the period ending two years after the date of the original delivery to the consumer of a new motor vehicle, or the first twenty-four thousand miles of operation, whichever occurs first.

NEW SECTION. Sec. 3. (1) Each new motor vehicle dealer shall provide an owner's manual which shall be published by the manufacturer and include a list of the addresses and phone numbers for its zone or regional offices for this state.

(2) At the time of purchase, the new motor vehicle dealer shall provide the consumer with a written statement that explains the consumer's rights under this chapter. The written statement shall be prepared and supplied by the attorney general and shall contain a toll-free number that the consumer can contact for information regarding the procedures and remedies under this chapter.

(3) For the purposes of this chapter, if a new motor vehicle does not conform to the warranty and the consumer reports the nonconformity during the term of the warranty period or the period of coverage of the applicable manufacturer's written warranty, whichever is less, to the

manufacturer, its agent, or the new motor vehicle dealer who sold the new motor vehicle, the manufacturer, its agent, or the new motor vehicle dealer shall make repairs as are necessary to conform the vehicle to the warranty, regardless of whether such repairs are made after the expiration of the warranty period. Any corrections or attempted repairs undertaken by a new motor vehicle dealer under this chapter shall be treated as warranty work and billed by the dealer to the manufacturer in the same manner as other work under the manufacturer's written warranty is billed. For purposes of this subsection, the manufacturer's written warranty shall be at least one year after the date of the original delivery to the consumer of the vehicle or the first twelve thousand miles of operation, whichever occurs first.

(4) Upon request from the consumer, the manufacturer or new motor vehicle dealer shall provide a copy of any report or computer reading compiled by the manufacturer's field or zone representative regarding inspection, diagnosis, or test-drive of the consumer's new motor vehicle, or shall provide a copy of any technical service bulletin issued by the manufacturer regarding the year and model of the consumer's new motor vehicle as it pertains to any material, feature, component, or the performance thereof.

(5) The new motor vehicle dealer shall provide to the consumer each time the consumer's vehicle is returned from being diagnosed or repaired under the warranty, a fully itemized, legible statement or repair order indicating any diagnosis made, and all work performed on the vehicle including but not limited to, a general description of the problem reported by the consumer or an identification of the defect or condition, parts and labor, the date and the odometer reading when the vehicle was submitted for repair, and the date when the vehicle was made available to the consumer.

(6) No manufacturer, its agent, or the new motor vehicle dealer may refuse to diagnose or repair any nonconformity covered by the warranty for the purpose of avoiding liability under this chapter.

(7) For purposes of this chapter, consumers shall have the rights and remedies, including a cause of action, against manufacturers as provided in this chapter.

(8) The warranty period and thirty-day out-of-service period shall be extended by any time that repair services are not available to the consumer as a direct result of a strike, war, invasion, fire, flood, or other natural disaster.

NEW SECTION. Sec. 4. (1) If the manufacturer, its agent, or the new motor vehicle dealer is unable to conform the new motor vehicle to the warranty by repairing or correcting any nonconformity after a reasonable number of attempts, the manufacturer, within forty calendar days of a consumer's written request shall, at the option of the consumer, replace or repurchase the new motor vehicle.

The replacement motor vehicle shall be identical or reasonably equivalent to the motor vehicle to be replaced. Compensation for a reasonable offset for use shall be paid by the consumer to the manufacturer in the event that the consumer accepts a replacement motor vehicle.

When repurchasing the new motor vehicle, the manufacturer shall refund to the consumer the purchase price, all collateral charges, and incidental costs, less a reasonable offset for use. Refunds shall be made to the consumer and lienholder of record, if any, as his or her interests may appear.

(2) Reasonable number of attempts shall be deemed to have been undertaken by the manufacturer, its agent, or the new motor vehicle dealer to conform the new motor vehicle to the warranty within the warranty period, if: (a) The same serious safety defect has been subject to repair two or more times, at least one of which is during the period of coverage of the applicable manufacturer's written warranty; (b) the same nonconformity has been subject to diagnosis or repair four or more times, at least one of which is during the period of coverage of the applicable manufacturer's written warranty, and the nonconformity continues to exist; or (c) the vehicle is out-of-service by reason of diagnosis or repair of one or more nonconformities for a cumulative total of thirty calendar days, at least fifteen of them during the period of the applicable manufacturer's written warranty. For purposes of this subsection, the manufacturer's written warranty shall be at least one year after the date of the original delivery to the consumer of the vehicle or the first twelve thousand miles of operation, whichever occurs first.

(3) No new motor vehicle dealer may be held liable by the manufacturer for any collateral charges, incidental costs, purchase price refunds, or vehicle replacements. Manufacturers shall not have a cause of action against dealers under this chapter, but may pursue rights and remedies in other proceedings in accordance with the manufacturer-dealer franchise agreement. Consumers shall not have a cause of action against dealers under this chapter, but a violation of any responsibilities imposed upon dealers under this chapter is a per se violation of chapter 19.86 RCW. Consumers may pursue rights and remedies against dealers under any other law, including chapters 46.70 and 46.71 RCW. Manufacturers and consumers may not make dealers parties to arbitration board proceedings under this chapter.

NEW SECTION. Sec. 5. (1) A manufacturer shall be prohibited from reselling any motor vehicle determined or adjudicated as having a serious safety defect unless the serious safety defect has been corrected and the manufacturer warrants upon the resale that the defect has been corrected.

(2) After the replacement or repurchase of a motor vehicle with a nonconformity uncorrected pursuant to this chapter, the manufacturer shall notify the attorney general and the department of licensing, by certified

mail, upon receipt of the manufacturer's motor vehicle. If such nonconformity is corrected, the manufacturer shall notify the attorney general and the department of licensing of such correction.

(3) Upon the resale, either at wholesale or retail, or transfer of title of a motor vehicle with an uncorrected nonconformity and which was previously returned after a final determination, adjudication, or settlement under this chapter or under a similar statute of any other state, the manufacturer, its agent, or the new motor vehicle dealer shall execute and deliver to the buyer before sale an instrument in writing setting forth information identifying the nonconformity in a manner to be specified by the attorney general, and the department of licensing shall place on the certificate of title information indicating the vehicle was returned under this chapter.

(4) Upon receipt of the manufacturer's notification under subsection (2) of this section that the nonconformity has been corrected and upon the manufacturer's request and payment of any fees, the department of licensing shall issue a new title with information indicating the vehicle was returned under this chapter and that the nonconformity has been corrected. Upon the resale, either at wholesale or retail, or transfer of title of a motor vehicle for which a new title has been issued under this subsection, the manufacturer shall warrant upon the resale that the nonconformity has been corrected, and the manufacturer, its agent, or the new motor vehicle dealer shall execute and deliver to the buyer before sale an instrument in writing setting forth information identifying the nonconformity and indicating that it has been corrected in a manner to be specified by the attorney general.

NEW SECTION. Sec. 6. (1) Except as provided in section 15 of this act, the attorney general shall contract with one or more private entities to establish new motor vehicle arbitration boards to settle disputes between consumers and manufacturers as provided in this chapter. The entities shall not be affiliated with any manufacturer or new motor vehicle dealer and shall have available the services of persons with automotive technical expertise to assist in resolving disputes under this chapter. Payment to the entities for the arbitration services shall be made from the new motor vehicle arbitration account.

(2) The attorney general shall adopt rules for the uniform conduct of the arbitrations by the boards, which rules shall include but not be limited to the following procedures:

(a) At all arbitration proceedings, the parties are entitled to present oral and written testimony, to present witnesses and evidence relevant to the dispute, to cross-examine witnesses, and to be represented by counsel.

(b) A dealer, or a manufacturer or other party shall produce records and documents requested by a party which the board finds are reasonably related to the dispute. If a dealer, or a manufacturer or other party refuses to comply with the board's determination, a party may request the attorney

general to issue a subpoena on behalf of the board. A party may also request the attorney general to issue a subpoena on behalf of the board for the records and documents of other persons.

(c) A party may obtain written affidavits from employees and agents of a dealer, a manufacturer or other party, or from other potential witnesses, and may submit such affidavits for consideration by the board.

(d) Records of the board proceedings shall be open to the public. The hearings shall be open to the public to the extent practicable.

(3) A consumer shall exhaust the new motor vehicle arbitration board remedy or informal dispute resolution settlement procedure under section 14 of this act before filing any superior court action.

(4) The attorney general shall maintain records of each dispute submitted to the new motor vehicle arbitration board, including an index of new motor vehicles by year, make, and model.

(5) The attorney general shall compile aggregate annual statistics for all disputes submitted to, and decided by, the new motor vehicle arbitration board, as well as annual statistics for each manufacturer that include, but shall not be limited to, the number and percent of: (a) Replacement motor vehicle requests; (b) purchase price refund requests; (c) replacement motor vehicles obtained in prehearing settlements; (d) purchase price refunds obtained in prehearing settlements; (e) replacement motor vehicles awarded in arbitration; (f) purchase price refunds awarded in arbitration; (g) board decisions neither complied with during the forty calendar day period nor petitioned for appeal within the thirty calendar day period; (h) board decisions appealed categorized by consumer or manufacturer; (i) the nature of the court decisions and who the prevailing party was; (j) appeals that were held by the court to be brought without good cause; and (k) appeals that were held by the court to be brought solely for the purpose of harassment. The statistical compilations shall be public information.

(6) The attorney general shall submit biennial reports of the information in this section to the senate and house of representatives committees on commerce and labor, with the first report due January 1, 1990.

(7) The attorney general shall adopt rules to implement this chapter. Such rules shall include uniform standards by which the boards shall make determinations under this chapter, including but not limited to rules which provide:

(a) A board shall find that a nonconformity exists if it determines that the consumer's new motor vehicle has a defect, serious safety defect, or condition that substantially impairs the use, value, or safety of the vehicle.

(b) A board shall find that a reasonable number of attempts to repair a nonconformity have been undertaken if: (i) The same serious safety defect has been subject to repair two or more times, at least one of which is during the period of coverage of the applicable manufacturer's written warranty; (ii) the same nonconformity has been subject to diagnosis or repair four or

more times, at least one of which is during the period of coverage of the applicable manufacturer's written warranty, and the nonconformity continues to exist; or (iii) the vehicle is out-of-service by reason of diagnosis or repair of one or more nonconformities for a cumulative total of thirty calendar days, at least fifteen of them during the period of the applicable manufacturer's written warranty. For purposes of this subsection, the manufacturer's written warranty shall be at least one year after the date of the original delivery to the consumer of the vehicle or the first twelve thousand miles of operation, whichever occurs first.

(c) A board shall find that a manufacturer has failed to comply with section 4 of this act if it finds that the manufacturer, its agent, or the new motor vehicle dealer has failed to correct a nonconformity after a reasonable number of attempts and the manufacturer has failed, within forty days of the consumer's written request, to repurchase the vehicle or replace the vehicle with a vehicle identical or reasonably equivalent to the vehicle being replaced.

(8) The attorney general shall provide consumers with information regarding the procedures and remedies under this chapter.

NEW SECTION. Sec. 7. (1) A consumer may request arbitration under this chapter by submitting the request to the attorney general. Within ten days after receipt of an arbitration request, the attorney general shall make a reasonable determination of the cause of the request for arbitration and provide necessary information to the consumer regarding the consumer's rights and remedies under this chapter. The attorney general shall assign the dispute to a board, except that if it clearly appears from the materials submitted by the consumer that the dispute is not eligible for arbitration, the attorney general may refuse to assign the dispute and shall explain any required procedures to the consumer.

(2) Manufacturers shall submit to arbitration if such arbitration is requested by the consumer within thirty months from the date of original delivery of the new motor vehicle to the consumer and if the consumer's dispute is deemed eligible for arbitration by the board.

(3) The new motor vehicle arbitration board may reject for arbitration any dispute that it determines to be frivolous, fraudulent, filed in bad faith, res judicata or beyond its authority. Any dispute deemed by the board to be ineligible for arbitration due to insufficient evidence may be reconsidered by the board upon the submission of other information or documents regarding the dispute that would allegedly qualify for relief under this chapter. Following a second review, the board may reject the dispute for arbitration if evidence is still clearly insufficient to qualify the dispute for relief under this chapter. A rejection by the board is subject to review by the attorney general or may be appealed under section 8 of this act.

A decision to reject any dispute for arbitration shall be sent by certified mail to the consumer and the manufacturer, and shall contain a brief explanation as to the reason therefor.

(4) The arbitration board shall award the remedies under section 4 of this act if it finds a nonconformity and that a reasonable number of attempts have been undertaken to correct the nonconformity.

(5) It is an affirmative defense to any claim under this chapter that: (a) The alleged nonconformity does not substantially impair the use, value, or safety of the new motor vehicle; or (b) the alleged nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of the new motor vehicle.

(6) The board shall have thirty calendar days from the date the board receives the consumer's request for arbitration to hear the dispute. If the board determines that additional information is necessary, the board may continue the arbitration proceeding on a subsequent date within ten calendar days of the initial hearing. The board shall decide the dispute within sixty calendar days from the date the board receives the consumer's request for arbitration.

The decision of the board shall be sent by certified mail to the consumer and the manufacturer, and shall contain a written finding of whether the new motor vehicle meets the standards set forth under this chapter.

(7) The consumer may accept the arbitration board decision or appeal to superior court, pursuant to section 8 of this act. Upon acceptance by the consumer, the arbitration board decision shall become final. The consumer shall send written notification of acceptance to the arbitration board who shall immediately send a copy of the consumer's acceptance to the manufacturer by certified mail, return receipt requested.

(8) Upon receipt of the consumer's acceptance, the manufacturer shall have forty calendar days to comply with the arbitration board decision or thirty calendar days to file a petition of appeal in superior court. At the time the petition of appeal is filed, the manufacturer shall send, by certified mail, a conformed copy of such petition to the attorney general. If the attorney general receives no notice of petition of appeal after forty calendar days, the attorney general shall contact the consumer to verify compliance.

(9) If, at the end of the forty calendar day period, neither compliance with, nor a petition to appeal the board's decision has occurred, the attorney general may impose a fine of one thousand dollars per day until compliance occurs or a maximum penalty of one hundred thousand dollars accrues unless the manufacturer can provide clear and convincing evidence that any delay or failure was beyond its control or was acceptable to the consumer as evidenced by a written statement signed by the consumer. If the manufacturer fails to provide such evidence or fails to pay the fine, the attorney general shall initiate proceedings against the manufacturer for failure to

pay any fine that accrues until compliance with the board's decision occurs or the maximum penalty of one hundred thousand dollars results.

NEW SECTION. Sec. 8. (1) The consumer or the manufacturer may request a trial de novo of the arbitration decision, including a rejection, in superior court.

(2) If the manufacturer appeals, the court may require the manufacturer to post security for the consumer's financial loss due to the passage of time for review.

(3) If the consumer prevails, recovery shall include the monetary value of the award, attorneys' fees and costs incurred in the superior court action, and, if the board awarded the consumer replacement or repurchase of the vehicle and the manufacturer did not comply, continuing damages in the amount of twenty-five dollars per day for all days beyond the forty calendar day period following the manufacturer's receipt of the consumer's acceptance of the board's decision in which the manufacturer did not provide the consumer with the free use of a comparable loaner replacement motor vehicle. If it is determined by the court that the manufacturer acted without good cause in bringing the appeal or brought the appeal solely for the purpose of harassment, the court may triple, but at least shall double, the amount of the total award.

NEW SECTION. Sec. 9. A five-dollar arbitration fee shall be collected by the new motor vehicle dealer from the consumer at completion of sale. The fee shall be forwarded to the department of licensing for deposit in the new motor vehicle arbitration account hereby created in the state treasury. Moneys in the account shall be used for the purposes of this chapter, subject to appropriation.

At the end of each fiscal year, the attorney general shall prepare a report listing the annual revenue generated and the expenses incurred in implementing and operating the arbitration program under this chapter.

NEW SECTION. Sec. 10. A violation of this chapter shall constitute an unfair or deceptive trade practice affecting the public interest under chapter 19.86 RCW. All public and private remedies provided under that chapter shall be available to enforce this chapter.

NEW SECTION. Sec. 11. Any agreement entered into by a consumer for the purchase of a new motor vehicle that waives, limits, or disclaims the rights set forth in sections 2 through 12 of this act shall be void as contrary to public policy. Said rights shall extend to a subsequent transferee of such new motor vehicle.

NEW SECTION. Sec. 12. Nothing in this chapter limits the consumer from pursuing other rights or remedies under any other law.

Sec. 13. Section 5, chapter 240, Laws of 1983 and RCW 19.118.050 are each amended to read as follows:

It shall be presumed that a reasonable number of attempts have been undertaken to conform a motor vehicle to the applicable express warranties if during the term of such express warranties or during the period of one year following the date of original delivery of the motor vehicle to a buyer: (1) The same nonconformity has been subject to diagnosis or repair four or more times by the manufacturer or its agents; ((or)) (2) ((the vehicle is out of service by reason of repair for a cumulative total of more than thirty days since the delivery of the vehicle to the buyer)) a serious safety defect has been subject to repair two or more times, and the defect continues to exist; or (3) the new motor vehicle is out-of-service by reason of diagnosis or repair of one or more nonconformities for a cumulative total of thirty calendar days. The thirty-day period includes each calendar day or portion thereof during which the service shop is open for business, but does not include periods during which repairs cannot be made due to ~~((conditions beyond the control of the service facility and does not include periods during which the buyer has been provided with a comparable replacement vehicle by the dealer or manufacturer))~~ reasons specified in section 3(8) of this 1987 act.

This section shall expire December 31, 1988.

NEW SECTION. Sec. 14. (1) If a manufacturer has established an informal dispute resolution settlement procedure which substantially complies with the applicable provision of Title 15, Code of Federal Regulations Part 703, as from time to time amended, a consumer may choose to first submit a dispute under this chapter to the informal dispute resolution settlement procedure.

(2) After the new motor vehicle arbitration board has been established and is operational and until December 31, 1988, consumers who have a pending case in the informal dispute resolution settlement procedure in this section may choose to transfer the case to be heard before the new motor vehicle arbitration board.

NEW SECTION. Sec. 15. If the attorney general is unable, or will be unable, to contract with private entities to conduct arbitrations under the procedures and standards in this chapter, by January 1, 1988, the attorney general shall establish one or more new motor vehicle arbitration boards. Each such board shall consist of three members appointed by the attorney general, only one of whom may be directly involved in the manufacture, distribution, sale, or service of any motor vehicle. Board members shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 and shall be compensated pursuant to RCW 43.03.240.

NEW SECTION. Sec. 16. A new section is added to chapter 82.32 RCW to read as follows:

If a manufacturer makes a refund of sales tax to a consumer upon return of a new motor vehicle under chapter 19.118 RCW, the department

shall credit or refund to the manufacturer the amount of the tax refunded, upon receipt of documentation as required by the department.

NEW SECTION. Sec. 17. Sections 2 through 12, 14, and 15 of this act are each added to chapter 19.118 RCW.

NEW SECTION. Sec. 18. By January 1, 1990, the appropriate standing committees of the house of representatives and the senate shall review sections 2 through 12 and 14 through 16 of this act. The committees shall receive input from consumers, manufacturers, dealers, private entities who have established boards, board members, the attorney general, and other interested persons and shall consider, among other issues, the effectiveness of the remedies available to consumers and the role of the attorney general.

NEW SECTION. Sec. 19. Sections 2 through 12 and 14 through 16 of this act shall expire on June 30, 1992, unless extended for an additional fixed period of time. By January 1, 1992, the legislative budget committee shall conduct a review of such provisions under the standards in chapter 43.131 RCW and report to the legislature.

NEW SECTION. Sec. 20. (1) There is appropriated from the new motor vehicle arbitration account to the attorney general for the biennium ending June 30, 1989, the sum of two million dollars, or so much thereof as may be necessary, to carry out the purposes of this act.

(2) Before January 1, 1988, the attorney general may expend funds appropriated under this section to establish the new motor vehicle arbitration boards.

NEW SECTION. Sec. 21. The following acts or parts of acts are each repealed effective January 1, 1988:

- (1) Section 2, chapter 240, Laws of 1983 and RCW 19.118.020;
- (2) Section 3, chapter 240, Laws of 1983, section 1, chapter 148, Laws of 1984 and RCW 19.118.030;
- (3) Section 4, chapter 240, Laws of 1983, section 2, chapter 148, Laws of 1984 and RCW 19.118.040; and
- (4) Section 6, chapter 240, Laws of 1983 and RCW 19.118.060.

NEW SECTION. Sec. 22. (1) Section 9 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 1, 1987.

(2) Sections 2 through 8, 10 through 12, and 14 through 16 of this act shall take effect January 1, 1988, except that the attorney general may take such actions as are necessary to ensure the new motor vehicle arbitration boards are established and operational.

NEW SECTION. Sec. 23. 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.

Passed the Senate April 21, 1987.

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CHAPTER 345

[Substitute Senate Bill No. 5061]

TRAFFIC INFRACTIONS—FAILURE TO COMPLY WITH TRAFFIC LAWS— NONRESIDENTS MAY BE REQUIRED TO POST BONDS

AN ACT Relating to failure to comply with traffic infraction laws; amending RCW 46.64.020 and 46.64.015; adding a new section to chapter 46.64 RCW; and prescribing penalties.

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

Sec. 1. Section 46.64.020, chapter 12, Laws of 1961 as last amended by section 1, chapter 213, Laws of 1986 and RCW 46.64.020 are each amended to read as follows:

(1) Any person wilfully violating his or her written and signed promise to appear in court or his or her written and signed promise to respond to a notice of traffic infraction, as provided in this title, is guilty of a misdemeanor regardless of the disposition of the charge upon which he or she was originally arrested or the disposition of the notice of infraction: PROVIDED, That a written promise to appear in court or a written promise to respond to a notice of traffic infraction may be complied with by an appearance by counsel: PROVIDED FURTHER, That a person charged under RCW 46.20.021 with driving with an expired driver's license may respond by mailing to the court within fifteen days of the violation, a copy of the person's currently valid driver's license. Any person who has been issued a notice of infraction pursuant to RCW 46.63.030(3) and who wilfully fails to respond as provided in this title is guilty of a misdemeanor regardless of the disposition of the notice of infraction.

(2) Any person who accumulates two or more charges of failure to appear on his or her driving record in any four-year period as a result of non-compliance with the traffic infraction laws shall be guilty of failure to comply, a gross misdemeanor.

The arresting officer may determine probable cause for arrest under this subsection by verification of the person's driving record obtained from the department of licensing.

Sec. 2. Section 46.64.015, chapter 12, Laws of 1961 as last amended by section 11, chapter 303, Laws of 1985 and RCW 46.64.015 are each amended to read as follows: