

receive an allowance under the provisions of RCW 41.40.610 through 41.40.740. Such member shall receive a monthly disability allowance computed as provided for in RCW 41.40.620 and shall have such allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty-five.

Any member who receives an allowance under the provisions of this section shall be subject to such comprehensive medical examinations as required by the department. If such medical examinations reveal that such a member has recovered from the incapacitating disability and the member is offered reemployment by an employer at a comparable compensation, such member shall cease to be eligible for such allowance.

(2) The retirement for disability of a judge, who is a member of the retirement system, by the supreme court under Article IV, section 31 of the Constitution of the state of Washington (House Joint Resolution No. 37, approved by the voters November 4, 1980), with the concurrence of the retirement board, shall be considered a retirement under subsection (1) of this section.

(3) If the recipient of a monthly retirement allowance under this section dies before the total of the retirement allowance paid to the recipient equals the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to such person or persons having an insurable interest in his or her life as the recipient has nominated by written designation duly executed and filed with the director, or, if there is no such designated person or persons still living at the time of the recipient's death, then to the surviving spouse, or, if there is neither such designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representative.

NEW SECTION. Sec. 4. 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 immediately.

Passed the House March 13, 1989.

Passed the Senate April 12, 1989.

Approved by the Governor April 27, 1989.

Filed in Office of Secretary of State April 27, 1989.

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## CHAPTER 192

[House Bill No. 1545]

### FRAUDULENT FAILURE TO REGISTER A VEHICLE

AN ACT Relating to fraudulent failure to register a vehicle; amending RCW 46.16.010; creating a new section; prescribing penalties; and providing an effective date.

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

**NEW SECTION.** Sec. 1. The legislature recognizes that there are residents of this state who intentionally register motor vehicles in other states to evade payment of taxes and fees required by the laws of this state. This results in a substantial loss of revenue to the state. It is the intent of the legislature to impose a stronger criminal penalty upon those residents who defraud the state, thereby enhancing compliance with the registration laws of this state and further enhancing enforcement and collection efforts.

In order to encourage voluntary compliance with the registration laws of this state, administrative penalties associated with failing to register a motor vehicle are waived until September 1, 1989. It is not the intent of the legislature to waive traffic infraction or criminal traffic violations imposed prior to the effective date of this act.

Sec. 2. Section 46.16.010, chapter 12, Laws of 1961 as last amended by section 1, chapter 186, Laws of 1986 and RCW 46.16.010 are each amended to read as follows:

(1) It (~~shall be~~) is unlawful for a person to operate any vehicle over and along a public highway of this state without first having obtained and having in full force and effect a current and proper vehicle license and display vehicle license number plates therefor as by this chapter provided. Failure to make initial registration before operation on the highways of this state is a misdemeanor, and any person convicted thereof shall be punished by a fine of no less than (~~one hundred sixty-five~~) three hundred thirty dollars, no part of which may be suspended or deferred. Failure to renew an expired registration before operation on the highways of this state is a traffic infraction.

(2) The licensing of a motor vehicle in another state by a resident of this state, as defined in RCW 46.16.028, with willful intent to evade the payment of any tax or license fee imposed in connection with registration, is a gross misdemeanor punishable as follows:

(a) For a first offense, up to one year in the county jail and a fine equal to twice the amount of delinquent taxes and fees, no part of which may be suspended or deferred;

(b) For a second or subsequent offense, up to one year in the county jail and a fine equal to three times the amount of delinquent taxes and fees, no part of which may be suspended or deferred.

(3) These provisions shall not apply to farm vehicle as defined in RCW 46.04.181 if operated within a radius of fifteen miles of the farm where principally used or garaged, farm tractors and farm implements including trailers designed as cook or bunk houses used exclusively for animal herding temporarily operating or drawn upon the public highways, and trailers used exclusively to transport farm implements from one farm to another during the daylight hours or at night when such equipment has lights that comply with the law: PROVIDED FURTHER, That these provisions shall not apply to spray or fertilizer applicator rigs designed and used exclusively for

spraying or fertilization in the conduct of agricultural operations and not primarily for the purpose of transportation, and nurse rigs or equipment auxiliary to the use of and designed or modified for the fueling, repairing or loading of spray and fertilizer applicator rigs and not used, designed or modified primarily for the purpose of transportation: PROVIDED FURTHER, That these provisions shall not apply to fork lifts operated during daylight hours on public highways adjacent to and within five hundred feet of the warehouses which they serve: PROVIDED FURTHER, That these provisions shall not apply to equipment defined as follows:

"Special highway construction equipment" is any vehicle which is designed and used primarily for grading of highways, paving of highways, earth moving, and other construction work on highways and which is not designed or used primarily for the transportation of persons or property on a public highway and which is only incidentally operated or moved over the highway. It includes, but is not limited to, road construction and maintenance machinery so designed and used such as portable air compressors, air drills, asphalt spreaders, bituminous mixers, bucket loaders, track laying tractors, ditchers, leveling graders, finishing machines, motor graders, paving mixers, road rollers, scarifiers, earth moving scrapers and carryalls, lighting plants, welders, pumps, power shovels and draglines, self-propelled and tractor-drawn earth moving equipment and machinery, including dump trucks and tractor-dump trailer combinations which either (1) are in excess of the legal width or (2) which, because of their length, height or unladen weight, may not be moved on a public highway without the permit specified in RCW 46.44.090 and which are not operated laden except within the boundaries of the project limits as defined by the contract, and other similar types of construction equipment, or (3) which are driven or moved upon a public highway only for the purpose of crossing such highway from one property to another, provided such movement does not exceed five hundred feet and the vehicle is equipped with wheels or pads which will not damage the roadway surface.

Exclusions:

"Special highway construction equipment" does not include any of the following:

Dump trucks originally designed to comply with the legal size and weight provisions of this code notwithstanding any subsequent modification which would require a permit, as specified in RCW 46.44.090, to operate such vehicles on a public highway, including trailers, truck-mounted transit mixers, cranes and shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

NEW SECTION. Sec. 3. Section 2 of this act shall take effect September 1, 1989.

Passed the House March 8, 1989.

Passed the Senate April 7, 1989.

Approved by the Governor April 27, 1989.

Filed in Office of Secretary of State April 27, 1989.

## CHAPTER 193

[House Bill No. 1690]

### MOTOR VEHICLE FUEL TAX—EXEMPTIONS

AN ACT Relating to the motor vehicle fuel tax; amending RCW 82.36.230, 82.38.030, and 82.42.030; adding a new section to chapter 82.36 RCW; repealing RCW 82.36.302; and declaring an emergency.

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

Sec. 1. Section 82.36.230, chapter 15, Laws of 1961 as last amended by section 2, chapter 156, Laws of 1971 ex. sess. and RCW 82.36.230 are each amended to read as follows:

The provisions of this chapter requiring the payment of taxes ~~((shall))~~ do not apply to motor vehicle fuel imported into the state in interstate or foreign commerce and intended to be sold while ~~((they are))~~ in interstate or foreign commerce, nor to motor vehicle fuel ~~((;))~~ exported from this state by a qualified distributor, nor to sales by a distributor of motor vehicle fuel ~~((in individual quantities of five hundred gallons or less))~~ for export to another state or country by the purchaser ~~((other than in the supply tank of a motor vehicle. PROVIDED, That such distributor is licensed in the state of destination to collect and remit the applicable destination state taxes thereon)),~~ nor to any motor vehicle fuel sold by a qualified distributor to the armed forces of the United States or to the national guard for use exclusively in ships or for export from this state. The distributor shall report such imports, exports and sales to the director ~~((as hereinafter provided and))~~ at such times, on such forms, and in such detail as ~~((he))~~ the director may require, otherwise the exemption granted in this section ~~((shall be))~~ is null and void, and all fuel shall be considered distributed in this state fully subject to the provisions of this chapter. Each invoice covering ~~((such))~~ exempt sales shall have the statement "Ex Washington Motor Vehicle Fuel Tax" clearly marked thereon.

To claim any exemption from taxes under this section on account of ~~((the exportation))~~ sales by a licensed distributor of motor vehicle fuel ~~((by a distributor other than deliveries in his own equipment, such distributor shall execute an export certificate in such form as shall be furnished by the director, containing a statement, made by some person having actual knowledge of the fact of exportation, that the motor vehicle fuel has been exported from the state, and giving such details with reference to such~~