

contractors, the director shall give preference to nonprofit corporations. The director shall establish the criteria for the contract, which shall include but not be limited to species, size of smolt, stock composition, quantity, quality, rearing location, release location, and other pertinent factors.

NEW SECTION. Sec. 5. A new section is added to chapter 75.08 RCW to read as follows:

Nothing in this act shall authorize the practice of private ocean ranching. Privately contracted smolts become the property of the state at the time of release.

NEW SECTION. Sec. 6. A new section is added to chapter 75.08 RCW to read as follows:

The department may make available to private contractors salmon eggs in excess of department hatchery needs for the purpose of contract rearing to release the smolts into public waters. The priority of providing eggs to contract rearing shall be higher than providing eggs to aquaculture purposes which are not destined for release into Washington public waters.

NEW SECTION. Sec. 7. 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 22, 1989.

Passed the House April 21, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

CHAPTER 337

[Substitute Senate Bill No. 5443]

DEPARTMENT OF LICENSING—MOTOR VEHICLE AND DRIVERS' LICENSING PROGRAM REVISIONS

AN ACT Relating to programs administered by the department of licensing; amending RCW 46.04.302, 46.12.290, 46.12.370, 46.20.205, 46.20.300, 46.20.308, 46.20.510, 46.65.065, 46.70.011, 46.70.027, 46.70.070, 46.70.101, 46.80.110, 46.82.320, 46.82.360, and 82.50.010; reenacting and amending RCW 46.12.020; adding new sections to chapter 46.04 RCW; adding new sections to chapter 46.70 RCW; creating a new section; prescribing penalties; and providing an effective date.

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

Sec. 1. Section 4, chapter 231, Laws of 1971 ex. sess. as amended by section 1, chapter 22, Laws of 1977 ex. sess. and RCW 46.04.302 are each amended to read as follows:

"Mobile home" or "manufactured home" means a structure, originally constructed to be transportable in one or more sections, ((which)) that is ((thirty-two body feet or more in length and is eight body feet or more in width, and which is)) built on a permanent chassis, and designed to be used

as a dwelling with or without a permanent foundation when connected to the required utilities(~~(, and includes the)~~) that include plumbing, heating, (air-conditioning,) and electrical systems contained therein(, except as hereinafter specifically excluded, and excluding modular homes). The structure must comply with the national Mobile Home Construction and Safety Standards Act of 1974 as adopted in chapter 43.22 RCW, if applicable. For purposes of titling and registration, a structure that met this definition when constructed continues to be a manufactured home notwithstanding that it is no longer transportable when affixed to land.

NEW SECTION. Sec. 2. A new section is added to chapter 46.04 RCW to read as follows:

"Park trailer" or "park model trailer" means a travel trailer designed to be used with temporary connections to utilities necessary for operation of installed fixtures and appliances. The trailer's gross area shall not exceed four hundred square feet when in the setup mode. "Park trailer" excludes a mobile home.

NEW SECTION. Sec. 3. A new section is added to chapter 46.04 RCW to read as follows:

"Travel trailer" means a trailer built on a single chassis transportable upon the public streets and highways that is designed to be used as a temporary dwelling without a permanent foundation and may be used without being connected to utilities.

Sec. 4. Section 14, chapter 231, Laws of 1971 ex. sess. as last amended by section 2, chapter 304, Laws of 1981 and RCW 46.12.290 are each amended to read as follows:

The provisions of chapter 46.12 RCW insofar as they are not inconsistent with the provisions of ~~((this 1971 amendatory act shall))~~ chapter 231, Laws of 1971 ex. sess. apply to mobile homes regulated by ((this 1971 amendatory act)) chapter 231, Laws of 1971 ex. sess.: PROVIDED, That RCW 46.12.080 and 46.12.250 through 46.12.270 shall not apply to mobile homes(~~(: PROVIDED FURTHER, That)).~~) In order to lawfully transfer ownership ((of)) or add a secured party to a ((community)) mobile home, ((both spouses)) all registered owners of record must sign the title certificate. ((In addition;)) The director of licensing shall have the power to adopt such rules ((and regulations)) as ((he deems)) necessary to implement the provisions of this chapter ((46.12 RCW as they relate)) relating to mobile homes.

***Sec. 5. Section 1, chapter 215, Laws of 1982 and RCW 46.12.370 are each amended to read as follows:**

In addition to any other authority which it may have, the department of licensing may furnish lists of registered and legal owners of motor vehicles only for the purposes specified in this section to:

(1) The manufacturers of motor vehicles, or their authorized agents, to be used to enable those manufacturers to carry out the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. sec. 1382-1418), including amendments or additions thereto, respecting safety-related defects in motor vehicles;

(2) Any governmental agency of the United States or Canada, or political subdivisions thereof, to be used by it or by its authorized commercial agents or contractors only in connection with the enforcement of motor vehicle or traffic laws by, or programs related to traffic safety of, that government agency. Only such parts of the list as are required for completion of the work required of the agent or contractor shall be provided to such agent or contractor; ((or))

(3) Any business regularly making loans to other persons to finance the purchase of motor vehicles, to be used to assist the person requesting the list to determine ownership of specific vehicles for the purpose of determining whether or not to provide such financing; or

(4) Business enterprises for commercial purposes at such cost and for such purposes as the department deems appropriate.

In the event a list of registered and legal owners of motor vehicles is used for any purpose other than that authorized in subsections (1), (2) ~~((and))~~, (3), and (4) of this section, the manufacturer, governmental agency, financial institution, business enterprise, or their authorized agents or contractors responsible for the unauthorized disclosure or use will be denied further access to such information by the department of licensing.

*Sec. 5 was vetoed, see message at end of chapter.

Sec. 6. Section 18, chapter 121, Laws of 1965 ex. sess. as amended by section 13, chapter 170, Laws of 1969 ex. sess. and RCW 46.20.205 are each amended to read as follows:

Whenever any person after applying for or receiving a driver's license ~~((shall))~~ or identicard moves from the address named in ~~((such))~~ the application or in the license or identicard issued to him or her or when the name of a licensee or holder of an identicard is changed by marriage or otherwise ~~((such)),~~ the person shall within ten days thereafter notify the department in writing on a form provided by the department of his or her old and new addresses or of such former and new names and of the number of any license then held by him or her. The written notification is the exclusive means by which the address of record maintained by the department concerning the licensee or identicard holder may be changed. Any notice regarding the cancellation, suspension, revocation, probation, or nonrenewal of the driver's license, driving privilege, or identicard mailed to the address of record of the licensee or identicard holder is effective notwithstanding the licensee's or identicard holder's failure to receive the notice.

Sec. 7. Section 46.20.300, chapter 12, Laws of 1961 as last amended by section 150, chapter 158, Laws of 1979 and RCW 46.20.300 are each amended to read as follows:

The director of licensing (~~(may)~~) shall suspend, revoke, or cancel the vehicle driver's license of any resident of this state upon receiving notice of the conviction of such person in another state of an offense therein which, if committed in this state, would be ground for the suspension or revocation of the vehicle driver's license. The director may further, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this state, forward a certified copy of such record to the motor vehicle administrator in the state of which the person so convicted is a resident; such record to consist of a copy of the judgment and sentence in the case.

Sec. 8. Section 1, chapter 22, Laws of 1987 and RCW 46.20.308 are each amended to read as follows:

(1) Any person who operates a motor vehicle within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of his or her breath or blood for the purpose of determining the alcoholic content of his or her breath or blood if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor.

(2) The test or tests of breath shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. However, in those instances where: (a) The person is incapable due to physical injury, physical incapacity, or other physical limitation, of providing a breath sample; or (b) as a result of a traffic accident the person is being treated for a medical condition in a hospital, clinic, doctor's office, or other similar facility in which a breath testing instrument is not present, a blood test shall be administered by a qualified person as provided in RCW 46.61.506(4). The officer shall inform the person of his or her right to refuse the breath or blood test, and of his or her right to have additional tests administered by any qualified person of his or her choosing as provided in RCW 46.61.506. The officer shall warn the driver that (a) his or her privilege to drive will be revoked or denied if he or she refuses to submit to the test, and (b) that his or her refusal to take the test may be used in a criminal trial.

(3) Except as provided in this section, the test administered shall be of the breath only. If an individual is unconscious or is under arrest for the crime of vehicular homicide as provided in RCW 46.61.520 or vehicular assault as provided in RCW 46.61.522, or if an individual is under arrest for the crime of driving while under the influence of intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest results from an accident

in which another person has been injured and there is a reasonable likelihood that such other person may die as a result of injuries sustained in the accident, a breath or blood test may be administered without the consent of the individual so arrested.

(4) Any person who is dead, unconscious, or who is otherwise in a condition rendering him or her incapable of refusal, shall be deemed not to have withdrawn the consent provided by subsection (1) of this section and the test or tests may be administered, subject to the provisions of RCW 46.61.506, and the person shall be deemed to have received the warnings required under subsection (2) of this section.

(5) If, following his or her arrest and receipt of warnings under subsection (2) of this section, the person arrested refuses upon the request of a law enforcement officer to submit to a test or tests of his or her breath or blood, no test shall be given except as authorized under subsection (3) or (4) of this section.

(6) The department of licensing, upon the receipt of a sworn report of the law enforcement officer that ~~((he))~~ the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor and that the person had refused to submit to the test or tests upon the request of the law enforcement officer after being informed that refusal would result in the revocation of ~~((his))~~ the person's privilege to drive, shall revoke ~~((his))~~ the person's license or permit to drive or any nonresident operating privilege.

(7) Upon revoking the license or permit to drive or the nonresident operating privilege of any person, the department shall immediately notify the person involved in writing by personal service or by certified mail of its decision and the grounds therefor, and of ~~((his))~~ the person's right to a hearing, specifying the steps he or she must take to obtain a hearing. Within ~~((ten))~~ fifteen days after ~~((receiving such))~~ the notice has been given, the person may, in writing, request a formal hearing. Upon receipt of such request, the department shall afford the person an opportunity for a hearing as provided in RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest. For the purposes of this section, the scope of such hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor, whether the person was placed under arrest, and whether ~~((he))~~ the person refused to submit to the test or tests upon request of the officer after having been informed that such refusal would result in the revocation of ~~((his))~~ the person's privilege to drive. The department shall order that the revocation either be rescinded or sustained. Any decision by the department revoking a person's driving privilege shall be stayed and shall not take effect while a formal hearing is pending as

provided in this section or during the pendency of a subsequent appeal to superior court so long as there is no conviction for a moving violation or no finding that the person has committed a traffic infraction that is a moving violation during pendency of the hearing and appeal.

(8) If the revocation is sustained after such a hearing, the person whose license, privilege, or permit is revoked has the right to file a petition in the superior court of the county of arrest to review the final order of revocation by the department in the manner provided in RCW 46.20.334.

(9) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been revoked, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he or she has a license.

Sec. 9. Section 3, chapter 77, Laws of 1982 as last amended by section 9, chapter 1, Laws of 1985 ex. sess. and RCW 46.20.510 are each amended to read as follows:

(1) There shall be three categories for the special motorcycle endorsement of a driver's license. Category one shall be for motorcycles or motor-driven cycles having an engine displacement of one hundred fifty cubic centimeters or less. Category two shall be for motorcycles having an engine displacement of five hundred cubic centimeters or less. Category three shall include categories one and two, and shall be for motorcycles having an engine displacement of five hundred one cubic centimeters or more.

(2) ~~((A motorcycle endorsement issued prior to June 10, 1982, is deemed to be for category three. Thereafter, a person first seeking a motorcycle endorsement or a person seeking an endorsement to operate a motorcycle with an engine displacement of a higher category than the one covered by his or her existing endorsement, shall obtain an endorsement for the appropriate category pursuant to RCW 46.20.505 through 46.20.515.~~

~~(3))~~ The department may issue a motorcyclist's instruction permit to an individual who wishes to learn to ride a motorcycle or obtain an endorsement of a larger endorsement category for a period not to exceed ninety days. This motorcyclist's instruction permit may be renewed for an additional ninety days. The director shall collect a two dollar and fifty cent fee for the motorcyclist's instruction permit or renewal, and the fee shall be deposited in the motorcycle safety education account of the highway safety fund. This permit and a valid driver's license with current endorsement, if any, shall be carried when operating a motorcycle. An individual with a motorcyclist's instruction permit may not carry passengers, may not operate a motorcycle during the hours of darkness or on a fully-controlled, limited-access facility, and shall be under the direct visual supervision of a person with a motorcycle endorsement of the appropriate category and at least five years' riding experience.

Sec. 10. Section 5, chapter 62, Laws of 1979 and RCW 46.65.065 are each amended to read as follows:

(1) Whenever a person's driving record, as maintained by the department, brings him or her within the definition of an habitual traffic offender, as defined in RCW 46.65.020, the department shall forthwith notify ~~((such))~~ the person of the revocation in writing by certified mail at his or her address of record as maintained by the department. If ~~((such))~~ the person is a nonresident of this state, notice shall be sent to ~~((such))~~ the person's last known address. Notices of revocation shall inform the recipient thereof of his or her right to a formal hearing and specify the steps which must be taken in order to obtain a hearing. ~~((The person upon receiving such))~~ Within fifteen days after the notice has been given, the person may, in writing ~~((and within ten days therefrom))~~, request a formal hearing~~((: PROVIDED, That))~~. If such a request is not made within the prescribed time the right to a hearing ~~((shall be deemed to have been))~~ is waived~~((: PROVIDED FURTHER, That))~~. A request for a hearing ~~((shall))~~ stays the effectiveness of the revocation.

(2) Upon receipt of a request for a hearing, the department shall schedule a hearing in the county in which the person making the request resides, and if ~~((such))~~ the person is a nonresident of this state, the hearing shall be held in Thurston county. The department shall give at least ten days notice of the hearing to ~~((such))~~ the person.

(3) The scope of the hearings provided by this section ~~((shall be))~~ is limited to the issues of whether the certified transcripts or abstracts of the convictions, as maintained by the department, show that the requisite number of violations have been accumulated within the prescribed period of time as set forth in RCW 46.65.020 ~~((as now or hereafter amended))~~ and~~((:))~~ whether the terms and conditions for granting stays, as provided in RCW 46.65.060 ~~((as now or hereafter amended))~~, have been met.

(4) Upon receipt of the hearing officer's decision, an aggrieved party ~~((shall have the right to))~~ may appeal to the superior court of the county ~~((wherein))~~ in which he or she resides, or, in the case of a nonresident of this state, in the superior court of Thurston county, for review of the revocation. Notice of appeal must be filed within thirty days after receipt of the hearing officer's decision or the right to appeal ~~((shall be deemed to have been))~~ is waived. Review by the court shall be de novo and without a jury.

(5) The filing of a notice of appeal ~~((shall))~~ does not stay the effective date of the revocation.

Sec. 11. Section 3, chapter 11, Laws of 1979 as last amended by section 1, chapter 287, Laws of 1988 and RCW 46.70.011 are each amended to read as follows:

As used in this chapter:

(1) "Vehicle" means and includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is

or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(2) "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, and which is required to be registered and titled under Title 46 RCW, Motor Vehicles.

(3) "Vehicle dealer" means any person, firm, association, corporation, or trust, not excluded by subsection (4) of this section, engaged in the business of buying, selling, listing, exchanging, offering, brokering, leasing with an option to purchase, auctioning, soliciting, or advertising the sale of new or used vehicles, or arranging or offering or attempting to solicit or negotiate on behalf of others, a sale, purchase, or exchange of an interest in new or used motor vehicles, irrespective of whether the motor vehicles are owned by that person. Vehicle dealers shall be classified as follows:

(a) A "motor vehicle dealer" is a vehicle dealer that deals in new or used motor vehicles, or both;

(b) A "mobile home and travel trailer dealer" is a vehicle dealer that deals in mobile homes, park trailers, or travel trailers, or ((both)) more than one type of these vehicles;

(c) A "miscellaneous vehicle dealer" is a vehicle dealer that deals in motorcycles or vehicles other than motor vehicles or mobile homes and travel trailers or any combination of such vehicles.

(4) The term "vehicle dealer" does not include, nor do the licensing requirements of RCW 46.70.021 apply to, the following persons, firms, associations, or corporations:

(a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by, or acting under a judgment or order of, any court; or

(b) Public officers while performing their official duties; or

(c) Employees of vehicle dealers who are engaged in the specific performance of their duties as such employees; or

(d) Any person engaged in an isolated sale of a vehicle in which he is the registered or legal owner, or both, thereof; or

(e) Any person, firm, association, corporation, or trust, engaged in the selling of equipment other than vehicles, subject to registration, used for agricultural or industrial purposes; or

(f) A real estate broker licensed under chapter 18.85 RCW, or his authorized representative, who, on behalf of the legal or registered owner of a used mobile home negotiates the purchase, sale, or exchange of the used mobile home in conjunction with the purchase, sale, exchange, rental, or lease of the land upon which the used mobile home is located and the real estate broker is not acting as an agent, subagent, or representative of a vehicle dealer licensed under this chapter; or

(g) Owners who are also operators of the special highway construction equipment or of the highway construction equipment for which a vehicle license and display vehicle license number plate is required as defined in RCW 46.16.010; or

(h) Any bank, trust company, savings bank, mutual savings bank, savings and loan association, credit union, and any parent, subsidiary, or affiliate thereof, authorized to do business in this state under state or federal law with respect to the sale or other disposition of a motor vehicle owned and used in their business; or with respect to the acquisition and sale or other disposition of a motor vehicle in which the entity has acquired an interest as a lessor, lessee, or secured party.

(5) "Vehicle salesperson" means any person who for any form of compensation sells, auctions, leases with an option to purchase, or offers to sell or to so lease vehicles on behalf of a vehicle dealer.

(6) "Department" means the department of licensing, which shall administer and enforce the provisions of this chapter.

(7) "Director" means the director of licensing.

(8) "Manufacturer" means any person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new and unused vehicles or remanufactures vehicles in whole or in part and further includes the terms:

(a) "Distributor," which means any person, firm, association, corporation, or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new and unused vehicle to vehicle dealers or who maintains factory representatives.

(b) "Factory branch," which means a branch office maintained by a manufacturer for the purpose of selling or offering for sale, vehicles to a distributor, wholesaler, or vehicle dealer, or for directing or supervising in whole or in part factory or distributor representatives, and further includes any sales promotion organization, whether a person, firm, or corporation, which is engaged in promoting the sale of new and unused vehicles in this state of a particular brand or make to vehicle dealers.

(c) "Factory representative," which means a representative employed by a manufacturer, distributor, or factory branch for the purpose of making or promoting for the sale of their vehicles or for supervising or contracting with their dealers or prospective dealers.

(9) "Established place of business" means a location meeting the requirements of RCW 46.70.023(1) at which a vehicle dealer conducts business in this state.

(10) "Principal place of business" means that dealer firm's business location in the state, which place the dealer designates as their principal place of business.

(11) "Subagency" means any place of business of a vehicle dealer within the state, which place is physically and geographically separated

from the principal place of business of the firm or any place of business of a vehicle dealer within the state, at which place the firm does business using a name other than the principal name of the firm, or both.

(12) "Temporary subagency" means a location other than the principal place of business or subagency within the state where a licensed vehicle dealer may secure a license to conduct the business and is licensed for a period of time not to exceed ten days for a specific purpose such as auto shows, ~~((auctions;))~~ shopping center promotions, tent sales, exhibitions, or similar merchandising ventures. No more than six temporary subagency licenses may be issued to a licensee in any twelve-month period.

(13) "Wholesale vehicle dealer" means a vehicle dealer who ~~((sells to Washington dealers))~~ buys and sells other than at retail.

(14) "Retail vehicle dealer" means a vehicle dealer who ~~((sells vehicles to the public))~~ may buy and sell at both wholesale and retail.

(15) "Listing dealer" means a used mobile home dealer who makes contracts with sellers who will compensate the dealer for obtaining a willing purchaser for the seller's mobile home.

Sec. 12. Section 5, chapter 241, Laws of 1986 and RCW 46.70.027 are each amended to read as follows:

A vehicle dealer is accountable for the dealer's employees, sales personnel, and managerial personnel while in the performance of their official duties. Any violations of this chapter or applicable provisions of chapter 46.12 or 46.16 RCW committed by any of these employees subjects the dealer to license penalties prescribed under RCW 46.70.101. A retail purchaser, consignor who is not a motor vehicle dealer, or a motor vehicle dealer who has purchased from a wholesale dealer, who has suffered a loss or damage by reason of ((a breach of warranty or by)) any act by a dealer, salesperson, managerial person, or other employee of a dealership, that constitutes a violation of this chapter or applicable provisions of chapter 46.12 or 46.16 RCW may institute an action for recovery against the dealer and the surety bond as set forth in RCW 46.70.070. However, under this section, motor vehicle dealers who have purchased from wholesale dealers may only institute actions against wholesale dealers and their surety bonds.

NEW SECTION. Sec. 13. A new section is added to chapter 46.70 RCW to read as follows:

Dealers who transact dealer business by consignment shall obtain a consignment contract for sale and shall comply with applicable provisions of chapter 46.70 RCW. The dealer shall place all funds received from the sale of the consigned vehicle in a trust account until the sale is completed, except that the dealer shall pay any outstanding liens against the vehicle from these funds. Where title has been delivered to the purchaser, the dealer shall pay the amount due a consignor within ten days after the sale.

****NEW SECTION. Sec. 14. A new section is added to chapter 46.70 RCW to read as follows:***

(1) In addition to other powers granted, the director or the director's designee may enforce RCW 46.70.021 through the issuance of criminal citations. The sole duty of law enforcement agencies under this section is to make arrests. All enforcement actions under this section shall be prosecuted by the county prosecutor in the county in which the violation occurred.

(2) Any liability or claim that arises from the exercise or alleged exercise of authority under subsection (1) of this section rests with the department unless the director or the director's designee acts under the direction and control of another agency or unless the liability is otherwise assumed under a written agreement between the department of licensing and another agency.

****Sec. 14 was vetoed, see message at end of chapter.***

Sec. 15. Section 46.70.070, chapter 12, Laws of 1961 as last amended by section 11, chapter 241, Laws of 1986 and RCW 46.70.070 are each amended to read as follows:

(1) Before issuing a vehicle dealer's license, the department shall require the applicant to file with the department a surety bond in the amount of:

(a) Fifteen thousand dollars for motor vehicle dealers;

(b) Thirty thousand dollars for mobile home, park trailer, and travel trailer dealers: PROVIDED, That if such dealer does not deal in mobile homes or park trailers such bond shall be fifteen thousand dollars;

(c) Five thousand dollars for miscellaneous dealers, running to the state, and executed by a surety company authorized to do business in the state. Such bond shall be approved by the attorney general as to form and conditioned that the dealer shall conduct his business in conformity with the provisions of this chapter(;

~~(d) Wholesale dealers shall not be required to file a surety bond with the department)).~~

Any retail purchaser, consignee who is not a motor vehicle dealer, or a motor vehicle dealer who has purchased from a wholesale dealer, who ((shall have)) has suffered any loss or damage by reason of ((breach of warranty or by)) any act by a dealer which constitutes a violation of this chapter shall have the right to institute an action for recovery against such dealer and the surety upon such bond. However, under this section, motor vehicle dealers who have purchased from wholesale dealers may only institute actions against wholesale dealers and their surety bonds. Successive recoveries against said bond shall be permitted, but the aggregate liability of the surety to all persons shall in no event exceed the amount of the bond. Upon exhaustion of the penalty of said bond or cancellation of the bond by the surety the vehicle dealer license shall automatically be deemed canceled.

(2) The bond for any vehicle dealer licensed or to be licensed under more than one classification shall be the highest bond required for any such classification.

(3) Vehicle dealers shall maintain a bond for each business location in this state and bond coverage for all temporary subagencies.

Sec. 16. Section 11, chapter 74, Laws of 1967 ex. sess. as last amended by section 13, chapter 241, Laws of 1986 and RCW 46.70.101 are each amended to read as follows:

The director may by order deny, suspend, or revoke the license of any vehicle dealer or vehicle manufacturer or, in lieu thereof or in addition thereto, may by order assess monetary penalties of a civil nature not to exceed one thousand dollars per violation, if the director finds that the order is in the public interest and that the applicant or licensee:

(1) In the case of a vehicle dealer:

(a) The applicant or licensee, or any partner, officer, director, owner of ten percent or more of the assets of the firm, or managing employee:

(i) Was the holder of a license issued pursuant to this chapter, which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of the suspension have not been fulfilled or which license was assessed a civil penalty and the assessed amount has not been paid;

(ii) Has been adjudged guilty of a crime which directly relates to the business of a vehicle dealer and the time elapsed since the adjudication is less than ten years, or suffering any judgment within the preceding five years in any civil action involving fraud, misrepresentation, or conversion. For the purposes of this section, adjudged guilty shall mean in addition to a final conviction in either a state or municipal court, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt regardless of whether the sentence is deferred or the penalty is suspended;

(iii) Has knowingly or with reason to know made a false statement of a material fact in his application for license or any data attached thereto, or in any matter under investigation by the department;

(iv) Does not have an established place of business as required in this chapter;

(v) Refuses to allow representatives or agents of the department to inspect during normal business hours all books, records, and files maintained within this state;

(vi) Sells, exchanges, offers, brokers, auctions, solicits, or advertises a new or current model vehicle to which a factory new vehicle warranty attaches and fails to have a valid, written service agreement as required by this chapter, or having such agreement refuses to honor the terms of such agreement within a reasonable time or repudiates the same;

(vii) Is insolvent, either in the sense that their liabilities exceed their assets, or in the sense that they cannot meet their obligations as they mature;

(viii) Fails to pay any civil monetary penalty assessed by the director pursuant to this section within ten days after such assessment becomes final;

(ix) Fails to notify the department of bankruptcy proceedings in the manner required by RCW 46.70.183; .

(x) Knowingly, or with reason to know, allows a salesperson employed by the dealer, or acting as their agent, to commit any of the prohibited practices set forth in subsection (1)(a) of this section and RCW 46.70.180.

(b) The applicant or licensee, or any partner, officer, director, owner of ten percent of the assets of the firm, or any employee or agent:

(i) Has failed to comply with the applicable provisions of chapter 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted thereunder;

(ii) Has defrauded or attempted to defraud the state, or a political subdivision thereof of any taxes or fees in connection with the sale or transfer of a vehicle;

(iii) Has forged the signature of the registered or legal owner on a certificate of title;

(iv) Has purchased, sold, disposed of, or has in his or her possession any vehicle which he or she knows or has reason to know has been stolen or appropriated without the consent of the owner;

(v) Has willfully failed to deliver to a purchaser a certificate of ownership to a vehicle which he has sold;

(vi) Has committed any act in violation of RCW 46.70.090 relating to vehicle dealer license plates or manufacturer license plates;

(vii) Has committed any act in violation of RCW 46.70.180 relating to unlawful acts and practices;

(viii) Has engaged in practices inimical to the health or safety of the citizens of the state of Washington including but not limited to failure to comply with standards set by the state of Washington or the federal government pertaining to the construction or safety of vehicles;

(ix) Has aided or assisted an unlicensed dealer or salesperson in unlawful activity through active or passive participation in sales, allowing use of facilities, dealer license number, or by any other means; ((or))

(x) Converts or appropriates, whether temporarily or permanently, property or funds belonging to a customer, dealer, or manufacturer, without the consent of the owner of the property or funds; or

(xi) Has sold any vehicle with knowledge that it has "REBUILT" on the title or has been declared totaled out by an insurance carrier and then rebuilt without clearly disclosing that fact in writing.

(c) The licensee or any partner, officer, director, or owner of ten percent or more of the assets of the firm holds or has held any such position in

any other vehicle dealership licensed pursuant to this chapter which is subject to final proceedings under this section.

(2) In the case of a manufacturer, or any partner, officer, director, or majority shareholder:

(a) Was or is the holder of a license issued pursuant to this chapter which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of the suspension have not been fulfilled, or which license was assessed a civil penalty and the assessed amount has not been paid;

(b) Has knowingly or with reason to know, made a false statement of a material fact in his application for license, or any data attached thereto, or in any matter under investigation by the department;

(c) Has failed to comply with the applicable provisions of chapter 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted thereunder;

(d) Has defrauded or attempted to defraud the state or a political subdivision thereof, of any taxes or fees in connection with the sale or transfer of a vehicle;

(e) Has purchased, sold, disposed of, or has in his possession, any vehicle which he knows or has reason to know has been stolen or appropriated without the consent of the owner;

(f) Has committed any act in violation of RCW 46.70.090 relating to vehicle dealer license plates and manufacturer license plates;

(g) Has committed any act in violation of RCW 46.70.180 relating to unlawful acts and practices;

(h) Sells or distributes in this state or transfers into this state for resale, any new or unused vehicle to which a warranty attaches or has attached and refuses to honor the terms of such warranty within a reasonable time or repudiates the same;

(i) Fails to maintain one or more resident employees or agents to provide service or repairs to vehicles located within the state of Washington only under the terms of any warranty attached to new or unused vehicles manufactured and which are or have been sold or distributed in this state or transferred into this state for resale unless such manufacturer requires warranty service to be performed by all of its dealers pursuant to a current service agreement on file with the department;

(j) Fails to reimburse within a reasonable time any vehicle dealer within the state of Washington who in good faith incurs reasonable obligations in giving effect to warranties that attach or have attached to any new or unused vehicle sold or distributed in this state or transferred into this state for resale by any such manufacturer;

(k) Engaged in practices inimical to the health and safety of the citizens of the state of Washington including but not limited to failure to comply with standards set by the state of Washington or the federal government pertaining to the construction and safety of vehicles;

(l) Is insolvent either in the sense that his or her liabilities exceed his or her assets or in the sense that he or she cannot meet his or her obligations as they mature;

(m) Fails to notify the department of bankruptcy proceedings in the manner required by RCW 46.70.183.

Sec. 17. Section 46.80.110, chapter 12, Laws of 1961 as last amended by section 9, chapter 253, Laws of 1977 ex. sess. and RCW 46.80.110 are each amended to read as follows:

The director or a designee may, pursuant to the provisions of chapter ~~((34.04))~~ 34.05 RCW, by order deny, suspend, or revoke the license of any motor vehicle wrecker, or assess a civil fine of up to five hundred dollars for each violation, if ~~((he))~~ the director finds that the applicant or licensee has:

(1) Acquired a vehicle or major component part other than by first obtaining title or other documentation as provided by this chapter;

(2) Willfully misrepresented the physical condition of any motor or integral part of a motor vehicle;

(3) Sold, had in his possession, or disposed of a motor vehicle or trailer or any part thereof when he knows that such vehicle or part has been stolen, or appropriated without the consent of the owner;

(4) Sold, bought, received, concealed, had in his possession, or disposed of a motor vehicle or trailer or part thereof having a missing, defaced, altered, or covered manufacturer's identification number, unless approved by a law enforcement officer;

(5) Committed forgery or misstated a material fact on any title, registration, or other document covering a vehicle that has been reassembled from parts obtained from the disassembling of other vehicles;

(6) Committed any dishonest act or omission which the director has reason to believe has caused loss or serious inconvenience as a result of a sale of a motor vehicle, trailer, or part thereof;

(7) Failed to comply with any of the provisions of this chapter ~~((as now or hereafter amended;))~~ or with any of the rules ~~((and regulations))~~ adopted ~~((thereunder))~~ under it, or with any of the provisions of Title 46 RCW relating to registration and certificates of title of vehicles;

(8) Procured a license fraudulently or dishonestly or that such license was erroneously issued;

(9) Been convicted of a crime that directly relates to the business of a vehicle wrecker and the time elapsed since conviction is less than ten years, or suffered any judgment within the preceding five years in any civil action involving fraud, misrepresentation, or conversion. For the purposes of this section, conviction means in addition to a final conviction in either a federal,

state, or municipal court, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt regardless of whether the sentence is deferred or the penalty is suspended.

Sec. 18. Section 5, chapter 51, Laws of 1979 ex. sess. as amended by section 2, chapter 80, Laws of 1986 and RCW 46.82.320 are each amended to read as follows:

(1) No person, including the owner, operator, partner, officer, or stockholder of a driver training school shall give instruction in the operation of an automobile for a fee without a license issued by the director for that purpose. An application for an instructor's license shall be filed with the director, containing such information as prescribed by the director, accompanied by an application fee of twenty-five dollars which shall in no event be refunded. If the application is approved by the director and the applicant satisfactorily meets the examination requirements as prescribed in RCW 46.82.330, the applicant shall be granted a license valid for a period of one year from the date of issuance. An instructor shall take a requalification examination every five years.

(2) The annual fee for renewal of an instructor's license shall be five dollars. The director shall issue a license certificate to each licensee which shall be conspicuously displayed in the place of business of the employing driver training school. Unless revoked, canceled, or denied by the director, the license shall remain the property of the licensee in the event of termination of employment or employment by another driver training school. If a renewal application has not been received by the director within sixty days from the date a notice of license expiration was mailed to the licensee, the license will be voided requiring a new application as provided for in this chapter, including examination and payment of all fees.

(3) Persons who qualify under the rules jointly adopted by the superintendent of public instruction and the director of licensing to teach only the laboratory phase, shall be subject to a ten dollar examination fee.

(4) Each licensee shall be provided with a wallet-size identification card by the director at the time the license is issued which shall be carried on the instructor's person at all times while engaged in instructing.

(5) The person to whom an instructor's license has been issued shall notify the director in writing within thirty days of any change of employment or termination of employment, providing the name and address of the new driver training school by whom the instructor will be employed.

Sec. 19. Section 9, chapter 51, Laws of 1979 ex. sess. and RCW 46.82.360 are each amended to read as follows:

The license of any driver training school or instructor may be suspended, revoked, denied, or refused renewal for failure to comply with the business practices specified in this section.

(1) No place of business shall be established nor any business of a driver training school conducted or solicited within one thousand feet of an office or building owned or leased by the department of licensing in which examinations for drivers' licenses are conducted. The distance of one thousand feet shall be measured along the public streets by the nearest route from the place of business to such building.

(2) Any (~~motor vehicle~~) automobile used by a driver training school or an instructor for instruction purposes must be equipped with:

(a) Dual controls for foot brake and clutch, or foot brake only in a vehicle equipped with an automatic transmission;

(b) An instructor's rear view mirror; and

(c) A sign displayed on the back (~~and/or~~) or top, or both, of the vehicle not less than twenty inches in horizontal width or less than ten inches in vertical height and having the words "student driver" or "instruction car(^s)", or both, in legible, printed, English letters at least two and one-half inches in height near the top and the name of the school in similarly legible letters not less than one inch in height placed somewhere below the aforementioned words, and the street number and name and the telephone number in similarly legible letters at least one inch in height placed next below the name of the school. The lettering and background colors shall be of contrasting shades so as to be clearly readable at one hundred feet in clear daylight. The sign shall be displayed at all times when instruction is being given.

(3) Instruction may not be given by an instructor to a student in an automobile unless the student possesses a current and valid instruction permit issued pursuant to RCW 46.20.055 or a current and valid driver's license.

(4) No driver training school or instructor shall advertise or otherwise indicate that the issuance of a driver's license is guaranteed or assured as a result of the course of instruction offered.

(5) No driver training school or instructor shall utilize any types of advertising without using the full, legal name of the school and identifying itself as a driver training school. Items and services advertised must be available in a manner as might be expected by the average person reading the advertisement.

(6) A driver training school shall have an established place of business owned, rented, or leased by the school and regularly occupied and used exclusively for the business of giving driver instruction. The established place of business of a driver training school that applies for an initial license after the effective date of this act, shall be located in a district that is zoned for business or commercial purposes. The established place of business, branch office, or classroom or advertised address of any such driver training school shall not consist of or include a house trailer, residence, tent, temporary stand, temporary address, bus, telephone answering service if such service is

the sole means of contacting the driver training school, a room or rooms in a hotel or rooming house or apartment house, or premises occupied by a single or multiple-unit dwelling house. To classify as a branch office or classroom the facility must be within a thirty-five mile radius of the established place of business. Nothing in this subsection may be construed as limiting the authority of local governments to grant conditional use permits or variances from zoning ordinances.

(7) No driver training school or instructor shall conduct any type of instruction or training on a course used by the department of licensing for testing applicants for a Washington driver's license.

(8) Each driver training school shall maintain records on all of its students, including the student's name and address, the starting and ending dates of instruction, the student's instruction permit or driver's license number, the type of training given, and the total number of hours of instruction. Records of past students shall be maintained for five years following the completion of the instruction.

(9) Each driver training school shall, at its established place of business, display, in a place where it can be seen by all clients, a copy of the required minimum curriculum compiled by the driver advisory committee. Copies of the required minimum curriculum are to be provided to driver training schools and instructors by the director.

(10) Driver training schools and instructors shall submit to periodic inspections of their business practices, facilities, records, and insurance by authorized representatives of the director of the department of licensing.

Sec. 20. Section 82.50.010, chapter 15, Laws of 1961 as last amended by section 11, chapter 107, Laws of 1979 and RCW 82.50.010 are each amended to read as follows:

(1) "Mobile home" means a ((structure, transportable in one or more sections, which is thirty-two body feet or more in length and is eight body feet or more in width, and which is built on a permanent chassis, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein, except as hereinafter specifically excluded, and excluding modular homes as defined below)) mobile home as defined by RCW 46.04.302.

(2) "Park trailer" means a park trailer as defined by section 2 of this act.

(3) "Travel trailer" means ((all trailers of the type designed to be used upon the public streets and highways which are capable of being used as facilities for human habitation and which are less than thirty-two body feet in length and eight body feet or less in width, except as may be hereinafter specifically excluded)) a travel trailer as defined by section 3 of this act.

(4) "Modular home" means ((any factory-built housing designed primarily for residential occupancy by human beings which does not contain a

~~permanent frame and must be mounted on a permanent foundation)) a modular home as defined by RCW 46.04.303.~~

~~(5) "Camper" means a ((structure designed to be mounted upon a motor vehicle which provides facilities for human habitation or for temporary outdoor or recreational lodging and which is five feet or more in overall length and five feet or more in height from its floor to its ceiling when fully extended, but shall not include motor homes as defined in this section)) camper as defined by RCW 46.04.085.~~

~~(6) "Motor home(s)" means a motor ((vehicles originally designed; reconstructed, or permanently altered to provide facilities for human habitation)) home as defined by RCW 46.04.305.~~

~~(7) "Director" means the director of licensing of the state.~~

****NEW SECTION. Sec. 21. A study committee is established to develop recommendations regarding a system of driver's license issuance that provides increased security against fraud. The study is to include but not be limited to procedures, potential use of new technologies, equipment, and security provisions. If the committee finds that increased costs must be incurred, then a funding proposal should also be developed.***

The committee shall consist of:

(1) Two members from organizations representing business interests in the state and one member representing financial institutions, all to be appointed by the chair of the legislative transportation committee;

(2) The chief of the Washington state patrol or a designee;

(3) The chair of the liquor control board or a designee;

(4) The director of the department of licensing, or a designee, and one additional employee of the department appointed by the director;

(5) Two members of the Washington house of representatives, one from each political party, appointed by the speaker of the house of representatives; and

(6) Two members of the Washington state senate, one from each political party, appointed by the president of the senate.

The committee shall report its findings and recommendations to the house of representatives and senate transportation committees by December 1, 1989. Current departmental policy against issuing driver's licenses over the counter to individuals without adequate photographic identification shall remain in effect, and no contracts on driver's licensing systems may be awarded by the department of licensing until the committee recommendations are reviewed by the legislative transportation committee.

****Sec. 21 was vetoed, see message at end of chapter.***

Sec. 22. Section 46.12.020, chapter 12, Laws of 1961 as last amended by section 1, chapter 244, Laws of 1987 and by section 9, chapter 388, Laws of 1987 and RCW 46.12.020 are each reenacted and amended to read as follows:

~~((+))~~ No vehicle license number plates or certificate of license registration, whether original issues or duplicates, may be issued or furnished by the department unless the applicant, at the same time, makes satisfactory application for a certificate of ownership or presents satisfactory evidence that such a certificate of ownership covering the vehicle has been previously issued.

~~((2))~~ Except as otherwise provided in this section, no vehicle license number plates or certificate of license registration, whether original issues or duplicates, and no renewed vehicle license may be issued by the department unless the applicant possesses a valid driver's license. In the case of joint application by more than one person, each applicant shall possess a valid driver's license:

~~(3)~~ Subsection (2) of this section applies only to applicants who are individual persons and does not apply to corporations, other businesses, or vehicles proportionally registered under chapter 46.87 RCW:

~~(4)~~ Subsection (2) of this section does not apply to any applicant with respect to whom the department determines that:

~~(a)~~ The applicant's driver's license is not currently suspended or revoked and the applicant is not in suspended or revoked status;

~~(b)~~ The applicant has not been convicted of a violation of RCW 46.20.021, 46.20.342, 46.20.420, or 46.65.090; and

~~(c)~~ Circumstances not related to any violation of Title 46 RCW account for the applicant's current lack of a driver's license and the applicant's need to register a vehicle. The applicant shall by affidavit indicate:

~~(i)~~ The reason for the applicant's lack of a driver's license;

~~(ii)~~ The need the applicant has for registering a vehicle; and

~~(iii)~~ That the applicant will not knowingly permit a person without a driver's license to drive any vehicle registered in the applicant's name:

~~(5)~~ A knowingly made material misstatement on an affidavit under subsection (4)(c) of this section is a misdemeanor:

~~(6)~~ No denial under this section of issuance or of renewal of plates or certificates affects the right of any person to maintain, transfer, or acquire title in any vehicle. Unless the parties to the contract agree otherwise, no such denial affects the rights or obligations of any party to a contract for the purchase, or for the financing of the purchase, of a motor vehicle:))

NEW SECTION. Sec. 23. Section 22 of this act shall take effect January 1, 1990.

Passed the Senate April 20, 1989.

Passed the House April 20, 1989.

Approved by the Governor May 12, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 12, 1989.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 5, 14 and 21, Substitute Senate Bill No. 5443 entitled:

"AN ACT Relating to programs administered by the department of licensing."

This bill makes various policy changes in vehicle and driver laws. Section 5 grants the Department of Licensing the authority to furnish lists of registered and legal owners of motor vehicles to "business enterprises for commercial purposes...". Under the general policy set forth in the Public Disclosure Act, Initiative Measure No. 276, codified in RCW 42.17.260 (5), in order to protect the public's right to privacy and freedom from commercial intrusion, lists should not be provided for commercial purposes. This change in policy is not appropriate.

Section 14 grants the Director of the Department of Licensing, or the director's designee, the authority to issue criminal citations solely related to RCW 46.70.021 which requires dealers or manufacturers of vehicles to be licensed. Such specialized authority is inappropriate and unnecessary since criminal charges can be brought currently by taking the factual circumstances to a prosecutor. If the Legislature believes the grant of criminal citation authority is good policy for the Department of Licensing, it should consider a broad grant of authority for all its regulatory functions where criminal misdemeanor charges can be filed.

Section 21 establishes a study committee to develop recommendations regarding a system of driver's license issuance that provides increased security against fraud. It is not appropriate to delegate control over an executive department's contract decisions to a committee of the Legislature contingent on the committee's review of a study. I will direct the listed executive departments to cooperate in any legislative review of this issue.

With the exception of sections 5, 14, and 21, Substitute Senate Bill No. 5443 is approved."

CHAPTER 338

[Substitute House Bill No. 1074]

MAMMOGRAMS—COVERAGE BY HEALTH INSURANCE PLANS

AN ACT Relating to mammograms; adding a new section to chapter 48.20 RCW; adding a new section to chapter 48.21 RCW; adding a new section to chapter 48.44 RCW; adding a new section to chapter 48.46 RCW; and adding a new section to chapter 41.05 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 48.20 RCW to read as follows:

Each disability insurance policy issued or renewed after January 1, 1990, that provides coverage for hospital or medical expenses shall provide coverage for screening or diagnostic mammography services, provided that such services are delivered upon the recommendation of the patient's physician or advanced registered nurse practitioner as authorized by the board of nursing pursuant to chapter 18.88 RCW or physician's assistant pursuant to chapter 18.71A RCW.

This section shall not be construed to prevent the application of standard policy provisions applicable to other benefits such as deductible or co-payment provisions. This section does not limit the authority of an insurer to negotiate rates and contract with specific providers for the delivery of mammography services. This section shall not apply to medicare supplement