

## SEVENTY NINTH DAY

House Chamber, Olympia, Tuesday, March 31, 2015

The House was called to order at 9:55 a.m. by the Speaker (Representative Orwall presiding).

Reading of the Journal of the previous day was dispensed with and it was ordered to stand approved.

There being no objection, the House advanced to the fourth order of business.

### INTRODUCTION & FIRST READING

HB 2225 by Representative Smith

AN ACT Relating to a comprehensive study of the costs and benefits of accelerated retirement of certain coal-fired generation units; and adding new sections to chapter 80.82 RCW.

Referred to Committee on Technology & Economic Development.

There being no objection, the bill listed on the day's introduction sheet under the fourth order of business was referred to the committees so designated.

There being no objection, the House advanced to the fifth order of business.

### REPORTS OF STANDING COMMITTEES

March 26, 2015

SSB 5027 Prime Sponsor, Committee on Health Care: Providing access to the prescription drug monitoring database for clinical laboratories. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.225.040 and 2011 1st sp.s. c 15 s 87 are each amended to read as follows:

(1) Prescription information submitted to the department ~~((shall))~~ **must** be confidential, in compliance with chapter 70.02 RCW and federal health care information privacy requirements and not subject to disclosure, except as provided in subsections (3) and (4) of this section.

(2) The department ~~((shall))~~ **must** maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained is not disclosed to persons except as in subsections (3) and (4) of this section.

(3) The department may provide data in the prescription monitoring program to the following persons:

(a) Persons authorized to prescribe or dispense controlled substances, for the purpose of providing medical or pharmaceutical care for their patients;

(b) An individual who requests the individual's own prescription monitoring information;

(c) Health professional licensing, certification, or regulatory agency or entity;

(d) Appropriate local, state, and federal law enforcement or prosecutorial officials who are engaged in a bona fide specific investigation involving a designated person;

(e) Authorized practitioners of the department of social and health services and the health care authority regarding medicaid program recipients;

(f) The director or director's designee within the department of labor and industries regarding workers' compensation claimants;

(g) The director or the director's designee within the department of corrections regarding offenders committed to the department of corrections;

(h) Other entities under grand jury subpoena or court order; ~~((and))~~

(i) Personnel of the department for purposes of administration and enforcement of this chapter or chapter 69.50 RCW; and

(j) Personnel of a test site that meet the standards under section 2 of this act pursuant to an agreement between the test site and a person identified in (a) of this subsection to provide assistance in determining which medications are being used by an identified patient who is under the care of that person.

(4) The department may provide data to public or private entities for statistical, research, or educational purposes after removing information that could be used to identify individual patients, dispensers, prescribers, and persons who received prescriptions from dispensers.

(5) A dispenser or practitioner acting in good faith is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for requesting, receiving, or using information from the program.

**NEW SECTION. Sec. 2.** A new section is added to chapter 70.225 RCW to read as follows:

(1) Test sites that may receive access to data in the prescription monitoring program under RCW 70.225.040 must be:

(a) Licensed by the department as a test site under chapter 70.42 RCW; and

(b) Certified as a drug testing laboratory by the United States department of health and human services, substance abuse and mental health services administration.

(2) Test sites may not:

(a) Charge a fee for accessing the prescription monitoring program;

(b) Store data accessed from the prescription drug monitoring program in any form, including, but not limited to, hard copies, electronic copies, or web/digital based copies of any kind. Such data may be used only to transmit to those entities listed in RCW 70.255.040(3)(a).

**NEW SECTION. Sec. 3.** A new section is added to chapter 70.225 RCW to read as follows:

(1) Access to data in the qualifying laboratory must be under the supervision of the responsible person as designated by the United States department of health and human services, substance abuse and mental health services administration certification program.

(2) Such data cannot be gathered, shared, sold, or used in any manner other than as designated under RCW 70.255.040, section 2 of this act, or this section."

Correct the title.

Signed by Representatives Cody, Chair; Riccelli, Vice Chair; Schmick, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Caldier; Clibborn; Jinkins; Johnson; Moeller; Robinson; Rodne; Short; Tharinger and Van De Wege.

Passed to Committee on Rules for second reading.

March 26, 2015

SSB 5028 Prime Sponsor, Committee on Health Care: Raising licensure limits to allow assisted living facilities to serve a higher acuity resident population. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 18.20.020 and 2012 c 10 s 2 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adult day services" means care and services provided to a nonresident individual by the assisted living facility on the assisted living facility premises, for a period of time not to exceed ten continuous hours, and does not involve an overnight stay.

(2) "Assisted living facility" means any home or other institution, however named, which is advertised, announced, or maintained for the express or implied purpose of providing housing, basic services, and assuming general responsibility for the safety and well-being of the residents, and may also provide domiciliary care, consistent with chapter 142, Laws of 2004, to seven or more residents after July 1, 2000. However, an assisted living facility that is licensed for three to six residents prior to or on July 1, 2000, may maintain its assisted living facility license as long as it is continually licensed as an assisted living facility. "Assisted living facility" shall not include facilities certified as group training homes pursuant to RCW 71A.22.040, nor any home, institution or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution or section thereof. Nor shall it include any independent senior housing, independent living units in continuing care retirement communities, or other similar living situations including those subsidized by the department of housing and urban development.

(3) "Basic services" means housekeeping services, meals, nutritious snacks, laundry, and activities.

(4) "Continuing nursing services" means the resident has been assessed with a condition or diagnosis that is expected to require the frequent presence and supervision of a licensed registered nurse.

(5) "Department" means the state department of social and health services.

((5)) (6) "Domiciliary care" means: Assistance with activities of daily living provided by the assisted living facility

either directly or indirectly; or health support services, if provided directly or indirectly by the assisted living facility; or intermittent nursing services, if provided directly or indirectly by the assisted living facility; or continuing nursing services, if provided directly or indirectly by the assisted living facility.

((6)) (7) "General responsibility for the safety and well-being of the resident" means the provision of the following: Prescribed general low sodium diets; prescribed general diabetic diets; prescribed mechanical soft foods; emergency assistance; monitoring of the resident; arranging health care appointments with outside health care providers and reminding residents of such appointments as necessary; coordinating health care services with outside health care providers consistent with RCW 18.20.380; assisting the resident to obtain and maintain glasses, hearing aids, dentures, canes, crutches, walkers, wheelchairs, and assistive communication devices; observation of the resident for changes in overall functioning; blood pressure checks as scheduled; responding appropriately when there are observable or reported changes in the resident's physical, mental, or emotional functioning; or medication assistance as permitted under RCW 69.41.085 and as defined in RCW 69.41.010.

((7)) (8) "Legal representative" means a person or persons identified in RCW 7.70.065 who may act on behalf of the resident pursuant to the scope of their legal authority. The legal representative shall not be affiliated with the licensee, assisted living facility, or management company, unless the affiliated person is a family member of the resident.

((8)) (9) "Nonresident individual" means a person who resides in independent senior housing, independent living units in continuing care retirement communities, or in other similar living environments or in an unlicensed room located within an assisted living facility. Nothing in this chapter prohibits nonresidents from receiving one or more of the services listed in RCW 18.20.030(5) or requires licensure as an assisted living facility when one or more of the services listed in RCW 18.20.030(5) are provided to nonresidents. A nonresident individual may not receive domiciliary care, as defined in this chapter, directly or indirectly by the assisted living facility and may not receive the items and services listed in subsection ((6)) (7) of this section, except during the time the person is receiving adult day services as defined in this section.

((9)) (10) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

((10)) (11) "Resident" means an individual who is not related by blood or marriage to the operator of the assisted living facility, and by reason of age or disability, chooses to reside in the assisted living facility and receives basic services and one or more of the services listed under general responsibility for the safety and well-being of the resident and may receive domiciliary care or respite care provided directly or indirectly by the assisted living facility and shall be permitted to receive hospice care through an outside service provider when arranged by the resident or the resident's legal representative under RCW 18.20.380.

((11)) (12) "Resident applicant" means an individual who is seeking admission to a licensed assisted living facility and who has completed and signed an application for admission, or such application for admission has been completed and signed in their behalf by their legal representative if any, and if not, then the designated representative if any.

((12)) (13) "Resident's representative" means a person designated voluntarily by a competent resident, in writing, to act in the resident's behalf concerning the care and services provided by the assisted living facility and to receive information from the assisted living facility, if there is no legal representative. The resident's competence shall be determined using the criteria in RCW 11.88.010(1)(e). The resident's representative may not be

affiliated with the licensee, assisted living facility, or management company, unless the affiliated person is a family member of the resident. The resident's representative shall not have authority to act on behalf of the resident once the resident is no longer competent.

~~((13))~~ (14) "Secretary" means the secretary of social and health services.

**NEW SECTION. Sec. 2.** A new section is added to chapter 18.20 RCW to read as follows:

(1) An assisted living facility may provide continuing nursing services if it secures a designation on its license from the department.

(2) At least sixty days prior to the anticipated designation to provide continuing nursing services, the applicant must submit to the department a completed application on a form developed by the department.

(3) Prior to granting an initial continuing nursing services designation, the department shall make an inspection visit to the assisted living facility applicant to determine the facility's compliance with the continuing nursing services rules. At least once every eighteen months, the department shall inspect the assisted living facility to determine the facility's compliance with the applicable rules to determine whether the designation may be continued.

(4) The department shall establish fees to be paid by assisted living facilities prior to the issuance of an initial or renewal designation under this section. The department shall establish the fee at a level that covers the cost of the administration of the designation program.

**NEW SECTION. Sec. 3.** A new section is added to chapter 18.20 RCW to read as follows:

(1) If an assisted living facility chooses to provide continuing nursing services and admits a person who requires the frequent presence and evaluation of a registered nurse, the facility must have a registered nurse available to assure the safe delivery of the required care and services in accordance with applicable rules developed by the department.

(2) An assisted living facility that is unable to assure that a registered nurse is available to provide or direct the safe delivery of the required care and services may not admit or retain a person who requires the frequent presence and evaluation of a registered nurse. Persons who are receiving hospice care or have a short-term illness that is expected to be resolved within fourteen days may remain or be admitted in the facility provided that the facility is able to assure that sufficient numbers and appropriately qualified and trained staff or outside service providers under RCW 18.20.380 are available to meet the needs of such persons.

(3) If the assisted living facility license has the designation required under section 2 of this act, the facility may provide continuing nursing services, as defined by the department in rule, to meet the needs of residents whose needs could not be met through intermittent nursing services under RCW 18.20.330.

(4) On the disclosure form, the assisted living facility shall describe any limitations, additional services, or conditions that may apply under this section.

(5) In providing continuing nursing services, the assisted living facility shall observe the resident for changes in overall functioning and respond appropriately when there are observable or reported changes in the resident's physical, mental, or emotional functioning that exceed the licensee's licensure limitations and any limitations described in the disclosure form.

(6) If an assisted living facility with a continuing nursing services designation determines, or has reason to believe, that a resident needs continuing nursing services or rehabilitative therapy services, then the facility must provide the resident, the resident's legal representative, if any, and, if not, the resident representative,

with a department-approved written notice informing the client that he or she may be eligible for complete or partial coverage of those services through medicare, medicaid, veterans' benefits, long-term care insurance, or other benefit programs. The department shall develop the written notice with input from stakeholders. The notice must inform residents of possible coverage under the benefit programs at reduced fee or no cost to the resident, and provide contact information for those programs. The notice must be signed and dated by the resident, or his or her representative if the resident lacks capacity. The facility must retain a copy of the signed notice. If the resident chooses to use his or her benefits under medicare, medicaid, veterans' benefits, long-term care insurance, or other programs, the resident may elect to receive the nursing or rehabilitative therapy services offered through an outside health care provider under RCW 18.20.380, or from the assisted living facility if the facility is an authorized provider under the relevant benefit program. An assisted living facility that fails to give the notice required under this subsection and charges residents privately for the provision of continuing nursing or rehabilitative services and such services were otherwise eligible for medicare, veterans' benefits, long-term care insurance, or other third-party coverage, commits an act that constitutes financial exploitation under chapter 74.34 RCW.

(7) An assisted living facility that chooses to provide continuing nursing services, and has residents whose care is paid for in whole or in part by medicaid, may not use the continuing nursing services designation, or any physical plant alterations or application process necessary for such designation, as a basis for the permanent discharge of any of the facility's current medicaid residents. An assisted living facility that receives an initial continuing nursing services designation may not, for one year following the initial designation, reduce the number of medicaid residents that the facility accepts or retains below the highest number of medicaid residents living at the facility within one year prior to the application for an initial continuing nursing services designation. Any subsequent reduction must be made in accordance with this chapter and chapter 70.129 RCW. An assisted living facility with a designation to provide continuing nursing services that participates in the medicaid program may not involuntarily transfer, discharge, or otherwise refuse residence and services to a resident who was not enrolled in medicaid at the time of admission and subsequently enrolled in medicaid to finance their care, in whole or in part, following a change in health status that requires continuing nursing services.

**Sec. 4.** RCW 18.20.030 and 2012 c 10 s 3 are each amended to read as follows:

(1) After January 1, 1958, no person shall operate or maintain an assisted living facility as defined in this chapter within this state without a license under this chapter.

(2) An assisted living facility license is not required for the housing, or services, that are customarily provided under landlord tenant agreements governed by the residential landlord-tenant act, chapter 59.18 RCW, or when housing nonresident individuals who chose to participate in programs or services under subsection (5) of this section, when offered by the assisted living facility licensee or the licensee's contractor. This subsection does not prohibit the licensee from furnishing written information concerning available community resources to the nonresident individual or the individual's family members or legal representatives. The licensee may not require the use of any particular service provider.

(3) Residents receiving domiciliary care, directly or indirectly by the assisted living facility, are not considered nonresident individuals for the purposes of this section.

(4) An assisted living facility license is required when any person other than an outside service provider, under RCW 18.20.380, or family member:

(a) Assumes general responsibility for the safety and well-being of a resident;

(b) Provides assistance with activities of daily living, either directly or indirectly;

(c) Provides health support services, either directly or indirectly; ~~((c))~~

(d) Provides intermittent nursing services, either directly or indirectly; or

(e) Provides continuing nursing services, either directly or indirectly.

(5) An assisted living facility license is not required for one or more of the following services that may, upon the request of the nonresident, be provided to a nonresident individual: (a) Emergency assistance provided on an intermittent or nonroutine basis; (b) systems, including technology-based monitoring devices, employed by independent senior housing, or independent living units in continuing care retirement communities, to respond to the potential need for emergency services; (c) scheduled and nonscheduled blood pressure checks; (d) nursing assessment services to determine whether referral to an outside health care provider is recommended; (e) making and reminding the nonresident of health care appointments; (f) preadmission assessment for the purposes of transitioning to a licensed care setting; (g) medication assistance which may include reminding or coaching the nonresident, opening the nonresident's medication container, using an enabler, and handing prefilled insulin syringes to the nonresident; (h) falls risk assessment; (i) nutrition management and education services; (j) dental services; (k) wellness programs; (l) prefilling insulin syringes when performed by a nurse licensed under chapter 18.79 RCW; or (m) services customarily provided under landlord tenant agreements governed by the residential landlord-tenant act, chapter 59.18 RCW.

**Sec. 5.** RCW 18.20.090 and 2012 c 10 s 5 are each amended to read as follows:

(1) The department shall adopt, amend, and promulgate such rules, regulations, and standards with respect to all assisted living facilities and operators thereof to be licensed hereunder as may be designed to further the accomplishment of the purposes of this chapter in promoting safe and adequate care of individuals in assisted living facilities and the sanitary, hygienic, and safe conditions of the assisted living facility in the interest of public health, safety, and welfare.

(2) The department shall also amend and adopt rules regarding the provision of continuing nursing services, including rules that define:

(a) The process for designation of assisted living facilities, including required notices to be provided to residents and their legal representative if any, and if not, the resident's representative;

(b) The extent to which continuing nursing services may be provided in assisted living facilities;

(c) Staffing requirements; and

(d) Physical plant requirements.

**Sec. 6.** RCW 18.20.160 and 2012 c 10 s 11 are each amended to read as follows:

~~((No person operating an assisted living facility licensed under this chapter shall admit to or retain in the assisted living facility any aged person requiring nursing or medical care of a type provided by institutions licensed under chapters 18.51, 70.41 or 71.12 RCW, except that when registered nurses are available, and upon a doctor's order that a supervised medication service is needed, it may be provided. Supervised medication services, as defined by the department and consistent with chapters 69.41 and 18.79 RCW, may include an approved program of self medication or self directed medication. Such medication service shall be provided only to residents who otherwise meet all requirements for residency in an assisted living facility. No assisted living facility~~

~~shall admit or retain a person who requires the frequent presence and frequent evaluation of a registered nurse, excluding persons who are receiving hospice care or persons who have a short term illness that is expected to be resolved within fourteen days.)) The assisted living facility licensed under this chapter must assume general responsibility for each resident and must promote each resident's health, safety, and well-being consistent with the resident negotiated care plan. In addition, the assisted living facility may provide assistance with activities of daily living, health support services, intermittent nursing services, and continuing nursing services, as may be further defined by the department in rule, and consistent with the care and services included in the disclosure form required under RCW 18.20.300. To provide continuing nursing services, the licensee shall obtain from the department a designation as required by section 2 of this act. Without first obtaining the required designation on its license, an assisted living facility may not admit or retain a person who requires the frequent presence and frequent evaluation of a licensed registered nurse, except for persons who are receiving hospice care or persons who have a short-term illness that is expected to be resolved within fourteen days. The assisted living facility must assure that sufficient numbers and appropriately qualified and trained staff are available to provide care and services consistent with this chapter.~~

**Sec. 7.** RCW 18.20.330 and 2012 c 10 s 22 are each amended to read as follows:

(1) Assisted living facilities are not required to provide intermittent nursing services. The assisted living facility licensee may choose to provide any of the following intermittent nursing services through appropriately licensed and credentialed staff, however, the facility may or may not need to provide additional intermittent nursing services to comply with the reasonable accommodation requirements in federal or state law:

(a) Medication administration;

(b) Administration of health care treatments;

(c) Diabetic management;

(d) Nonroutine ostomy care;

(e) Tube feeding; and

(f) Nurse delegation consistent with chapter 18.79 RCW.

(2) The licensee shall clarify on the disclosure form any limitations, additional services, or conditions that may apply under this section.

(3) In providing intermittent nursing services, the assisted living facility shall observe the resident for changes in overall functioning and respond appropriately when there are observable or reported changes in the resident's physical, mental, or emotional functioning.

(4) The assisted living facility may provide intermittent nursing services to ~~((the extent permitted by RCW 18.20.160))~~ residents who do not require the frequent presence and supervision of a licensed registered nurse."

Correct the title.

Signed by Representatives Cody, Chair; Riccelli, Vice Chair; Schmick, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Caldier; Clibborn; Jinkins; Johnson; Moeller; Robinson; Rodne; Short; Tharinger and Van De Wege.

Referred to Committee on Appropriations.

March 26, 2015

SSB 5059

Prime Sponsor, Committee on Law & Justice:  
Creating the patent troll prevention act. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Goodman; Haler; Kirby; Klippert; Muri; Orwall; Stokesbary and Walkinshaw.

MINORITY recommendation: Do not pass. Signed by Representative Hansen.

Passed to Committee on Rules for second reading.

March 26, 2015

SB 5106 Prime Sponsor, Senator O'Ban: Creating a civil action for webcam unauthorized remote access. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Goodman; Haler; Hansen; Kirby; Klippert; Muri; Orwall; Stokesbary and Walkinshaw.

Passed to Committee on Rules for second reading.

March 26, 2015

SB 5143 Prime Sponsor, Senator Becker: Concerning the availability of childhood immunization resources for expecting parents. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chair; Riccelli, Vice Chair; Schmick, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Caldier; Clibborn; Jinkins; Johnson; Moeller; Robinson; Rodne; Short; Tharinger and Van De Wege.

Passed to Committee on Rules for second reading.

March 26, 2015

SSB 5145 Prime Sponsor, Committee on Health Care: Concerning the membership of the health technology clinical committee. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.14.090 and 2006 c 307 s 2 are each amended to read as follows:

(1) A health technology clinical committee is established, to include the following eleven members appointed by the administrator in consultation with participating state agencies:

(a) Six practicing physicians licensed under chapter 18.57 or 18.71 RCW; and

(b) Five other practicing licensed health professionals who use health technology in their scope of practice.

(i) At least two members of the committee must have professional experience treating women, children, elderly persons, and people with diverse ethnic and racial backgrounds.

(ii) At least one member of the committee must be appointed from nominations submitted by a statewide organization representing nonspecialty allopathic and osteopathic physicians.

(2) In addition, any rotating clinical expert selected to advise the committee on a health technology must be a nonvoting member of the committee.

(3) Members of the committee:

(a) Shall not contract with or be employed by a health technology manufacturer or a participating agency during their term or for eighteen months before their appointment. As a condition of appointment, each person shall agree to the terms and conditions imposed by the administrator regarding conflicts of interest;

(b) Are immune from civil liability for any official acts performed in good faith as members of the committee; and

(c) Shall be compensated for participation in the work of the committee in accordance with a personal services contract to be executed after appointment and before commencement of activities related to the work of the committee.

~~((3))~~ (4) Meetings of the committee and any advisory group are subject to chapter 42.30 RCW, the open public meetings act, including RCW 42.30.110(1)(i), which authorizes an executive session during a regular or special meeting to consider proprietary or confidential nonpublished information.

~~((4))~~ (5) Neither the committee nor any advisory group is an agency for purposes of chapter 34.05 RCW.

~~((5))~~ (6) The health care authority shall provide administrative support to the committee and any advisory group, and may adopt rules governing their operation."

Correct the title.

Signed by Representatives Cody, Chair; Riccelli, Vice Chair; Harris, Assistant Ranking Minority Member; Caldier; Clibborn; Jinkins; Johnson; Moeller; Robinson; Rodne; Tharinger and Van De Wege.

MINORITY recommendation: Do not pass. Signed by Representatives Schmick, Ranking Minority Member and Short.

Passed to Committee on Rules for second reading.

March 26, 2015

SSB 5147 Prime Sponsor, Committee on Health Care: Establishing a medicaid baseline health assessment and monitoring the medicaid population's health. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.320.030 and 2013 c 320 s 3 are each amended to read as follows:

By September 1, 2014:

(1) The authority shall adopt performance measures to determine whether service contracting entities are achieving the outcomes described in RCW 70.320.020 and 41.05.690 for clients enrolled in medical managed care programs operated according to Title XIX or XXI of the federal social security act.

(2) The department shall adopt performance measures to determine whether service contracting entities are achieving the outcomes described in RCW 70.320.020 for clients receiving mental health, long-term care, or chemical dependency services.

**Sec. 2.** RCW 70.320.040 and 2013 c 320 s 4 are each amended to read as follows:

By July 1, 2015, the authority and the department shall require that contracts with service coordination organizations include provisions requiring:

(1) The adoption of the outcomes and performance measures developed under this chapter and RCW 41.05.690 and mechanisms for reporting data to support each of the outcomes and performance measures; and

(2) That an initial health screen be conducted for new enrollees pursuant to the terms and conditions of the contract.

**Sec. 3.** RCW 70.320.050 and 2013 c 320 s 5 are each amended to read as follows:

(1) By December 1, 2014, the department and the authority shall report jointly to the legislature on the expected outcomes and the performance measures. The report must identify the performance measures and the expected outcomes established for each program, the relationship between the performance measures and expected improvements in client outcomes, mechanisms for reporting outcomes and measuring performance, and options for applying the performance measures and expected outcomes development process to other health and social service programs.

(2) By December 1, 2016, and annually thereafter, the department and the authority shall report to the legislature on the incorporation of the performance measures into contracts with service coordination organizations and progress toward achieving the identified outcomes. The report shall include:

(a) The number of medicaid clients enrolled over the previous year;

(b) The number of enrollees who received a baseline health assessment over the previous year;

(c) An analysis of trends in health improvement for medicaid enrollees in accordance with the measure set established under RCW 41.05.065; and

(d) Recommendations for improving the health of medicaid enrollees."

Correct the title.

Signed by Representatives Cody, Chair; Riccelli, Vice Chair; Schmick, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Caldier; Clibborn; Jinkins; Johnson; Moeller; Robinson; Tharinger and Van De Wege.

MINORITY recommendation: Do not pass. Signed by Representative Short.

MINORITY recommendation: Without recommendation. Signed by Representative Rodne.

Passed to Committee on Rules for second reading.

March 26, 2015

**ESSB 5158** Prime Sponsor, Committee on Law & Justice: Requiring call location information to be provided to law enforcement responding to an emergency. Reported by Committee on Public Safety

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 80.36 RCW to read as follows:

(1) A wireless telecommunications provider must provide information in its possession concerning the current or most recent location of a telecommunications device and call information of a

user of the device when requested by a law enforcement agency. A law enforcement agency must meet the following requirements:

(a) The law enforcement officer making the request on behalf of the law enforcement agency must be on duty during the course of his or her official duties at the time of the request;

(b) The law enforcement agency must verify there is no relationship or conflict of interest between the law enforcement officer responding, investigating or making the request, and either the person requesting the call location information or the person for whom the call location information is being requested;

(c) A law enforcement agency may only request this information when, in the law enforcement officer's exercise of reasonable judgment, he or she believes that the individual is in an emergency situation that involves the risk of death or serious physical harm and requires disclosure without a delay of information relating to the emergency;

(d) Concurrent to making a request, the responding law enforcement agency must check the federal bureau of investigation's national crime information center and any other available databases to identify if either the person requesting the call location information or the person for whom the call location information is being requested has any history of domestic violence or any court order restricting contact by a respondent;

(e) Concurrent to making a request, the responding law enforcement agency must also check with the Washington state patrol to identify if either the person requesting the call location information or the person for whom the call location information is being requested is participating in the address confidentiality program established in chapter 40.24 RCW. The secretary of state must make name information available to the Washington state patrol from the address confidentiality program as required under RCW 40.24.070. The Washington state patrol must not further disseminate list information except on an individual basis to respond to a request under this section;

(f) If the responding law enforcement agency identifies or has reason to believe someone has a history of domestic violence or stalking, has a court order restricting contact, or if the Washington state patrol identifies someone as participating in the address confidentiality program, then the law enforcement agency must not provide call location information to the individual who requested the information, unless pursuant to the order of a court of competent jurisdiction. A law enforcement agency may not disclose information obtained under this section to any other party except first responders responding to the emergency situation; and

(g) A law enforcement agency may not request information under this section for any purpose other than responding to a call for emergency services or in an emergency situation that involves the risk of death or serious physical harm.

(2) A wireless telecommunications provider may establish protocols by which the carrier voluntarily discloses call location information to law enforcement.

(3) No cause of action may be brought in any court against any wireless telecommunications provider, its officers, employees, agents, or other specified persons for providing call location information while acting in good faith and in accordance with the provisions of this section.

(4) All wireless telecommunications providers registered to do business in the state of Washington and all resellers of wireless telecommunications services shall submit their emergency contact information to the Washington state patrol in order to facilitate requests from a law enforcement agency for call location information in accordance with this section. Any change in contact information must be submitted immediately.

(5) The Washington state patrol must maintain a database containing emergency contact information for all wireless telecommunications providers registered to do business in the state

of Washington and must make the information immediately available upon request to facilitate a request from law enforcement for call location information under this section.

(6) The Washington state patrol may adopt by rule criteria for fulfilling the requirements of this section.

**Sec. 2.** RCW 40.24.070 and 2008 c 18 s 5 are each amended to read as follows:

The secretary of state may not make any records in a program participant's file available for inspection or copying, other than the address designated by the secretary of state, except under the following circumstances:

(1) If requested by a law enforcement agency, to the law enforcement agency; and

(a) The participant's application contains no indication that he or she has been a victim of domestic violence, sexual assault, or stalking perpetrated by a law enforcement employee; and

(b) The request is in accordance with official law enforcement duties and is in writing on official law enforcement letterhead stationery and signed by the law enforcement agency's chief officer, or his or her designee; or

(2) If directed by a court order, to a person identified in the order; and

(a) The request is made by a nonlaw enforcement agency; or

(b) The participant's file indicates he or she has reason to believe he or she is a victim of domestic violence, sexual assault, or stalking perpetrated by a law enforcement employee.

(3) To the Washington state patrol solely for the use authorized in section 1 of this act, provided that participant information must clearly distinguish between those participants requesting disclosure to a law enforcement agency of the location of a telecommunications device and call information of the user, and those participants who request nondisclosure to a law enforcement agency of the location of a telecommunications device and call information of the user. The Washington state patrol may not use the information or make the information available for inspection and copying for any other purpose than authorized in section 1 of this act. The secretary of state may adopt rules to make available the information required for the purposes of this section and section 1 of this act. The secretary of state and the secretary of state's officers, employees, or custodian, are not liable, nor shall a cause of action exist, for any loss or damage based upon the release of information, or the nondisclosure of information, from the address confidentiality program to the Washington state patrol if the agency, officer, employee, or custodian acted in good faith in attempting to comply with the provisions of this section and section 1 of this act.

**NEW SECTION. Sec. 3.** This act may be known and cited as the Kelsey Smith act."

Correct the title.

Signed by Representatives Goodman, Chair; Orwall, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton; Griffey; Moscoso; Pettigrew and Wilson.

Passed to Committee on Rules for second reading.

March 23, 2015  
SB 5171 Prime Sponsor, Senator Bailey: Concerning the definition of veteran for the purposes of the county veterans assistance fund. Reported by Committee on Community Development, Housing & Tribal Affairs

MAJORITY recommendation: Do pass as amended.

On page 3, beginning on line 15, after "honorable" strike "characterization of service" and insert "discharge;

(iv) A former member of the armed forces reserve or national guard who was released before their term ended and was released with an honorable discharge; or

(v) A former member of the armed forces reserve or national guard who received a general discharge or honorable under general conditions discharge"

On page 3, line 19 after "fund" insert "as the county determines necessary, which may include serving veterans with additional discharge characterizations"

Signed by Representatives Appleton, Chair; Robinson, Vice Chair; Johnson, Ranking Minority Member; Zeiger, Assistant Ranking Minority Member; Hawkins; Moscoso and Sawyer.

Passed to Committee on Rules for second reading.

March 26, 2015  
SSB 5175 Prime Sponsor, Committee on Health Care: Regarding telemedicine. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chair; Riccelli, Vice Chair; Schmick, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Caldier; Clibborn; Jinkins; Johnson; Moeller; Robinson; Rodne; Short; Tharinger and Van De Wege.

Referred to Committee on Appropriations.

March 26, 2015  
SB 5302 Prime Sponsor, Senator Benton: Addressing the prudent investor rule for Washington state trusts, delegation of trustee duties by trustees of a Washington state trust, and standards for authorization and treatment of statutory trust advisors and directed trustees incident to the establishment of Washington state directed trusts. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Goodman; Haler; Hansen; Kirby; Klippert; Muri; Orwall; Stokesbary and Walkinshaw.

Passed to Committee on Rules for second reading.

March 26, 2015  
2SSB 5311 Prime Sponsor, Committee on Ways & Means: Requiring crisis intervention training for peace officers. Reported by Committee on Public Safety

MAJORITY recommendation: Do pass. Signed by Representatives Goodman, Chair; Orwall, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton; Griffey; Moscoso; Pettigrew and Wilson.

Referred to Committee on Appropriations.

March 26, 2015

**ESSB 5346** Prime Sponsor, Committee on Health Care: Providing first responders with contact information for subscribers of personal emergency response services during an emergency. Reported by Committee on Public Safety

MAJORITY recommendation: Do pass. Signed by Representatives Goodman, Chair; Orwall, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton; Griffey; Moscoso; Pettigrew and Wilson.

Passed to Committee on Rules for second reading.

March 26, 2015  
**E2SSB 5353** Prime Sponsor, Committee on Ways & Means: Concerning marketing opportunities for spirits produced in Washington by craft and general licensed distilleries. Reported by Committee on Commerce & Gaming

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 66.24.140 and 2014 c 92 s 4 are each amended to read as follows:

(1) There ~~((shall be))~~ is a license to distillers, including blending, rectifying, and bottling; fee two thousand dollars per annum, unless provided otherwise as follows:

(a) For distillers producing one hundred fifty thousand gallons or less of spirits with at least half of the raw materials used in the production grown in Washington, the license fee must be reduced to one hundred dollars per annum;

(b) The board must license stills used and to be used solely and only by a commercial chemist for laboratory purposes, and not for the manufacture of liquor for sale, at a fee of twenty dollars per annum;

(c) The board must license stills used and to be used solely and only for laboratory purposes in any school, college, or educational institution in the state, without fee; and

(d) The board must license stills that have been duly licensed as fruit and/or wine distilleries by the federal government, used and to be used solely as fruit and/or wine distilleries in the production of fruit brandy and wine spirits, at a fee of two hundred dollars per annum.

(2) Any distillery licensed under this section may:

(a) Sell spirits of its own production for consumption off the premises. A distillery selling spirits under this subsection must comply with the applicable laws and rules relating to retailers;

(b) Contract distilled spirits for, and sell contract distilled spirits to, holders of distillers' or manufacturers' licenses, including licenses issued under RCW 66.24.520, or for export; and

(c) Provide free or for a charge one-half ounce or less samples of spirits of its own production to persons on the premises of the distillery. The maximum total per person per day is two ounces. Every person who participates in any manner in the service of samples must obtain a class 12 alcohol server permit. Spirits samples may be adulterated with nonalcoholic mixers, water, and/or ice.

**Sec. 2.** RCW 66.24.145 and 2014 c 92 s 1 are each amended to read as follows:

(1)(a) Any craft distillery may sell spirits of its own production for consumption off the premises.

(b) A craft distillery selling spirits under this subsection must comply with the applicable laws and rules relating to retailers.

(2) Any craft distillery may contract distilled spirits for, and sell contract distilled spirits to, holders of distillers' or manufacturers' licenses, including licenses issued under RCW 66.24.520, or for export.

(3) Any craft distillery licensed under this section may provide, free or for a charge, one-half ounce or less samples of spirits of its own production to persons on the premises of the distillery. The maximum total per person per day is two ounces. Every person who participates in any manner in the service of samples must obtain a class 12 alcohol server permit. Spirits samples may be adulterated with nonalcoholic mixers, water, and/or ice.

(4)(a) A distillery or craft distillery licensee may apply to the board for an endorsement to sell spirits of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars.

(b) For each month during which a distillery or craft distillery will sell spirits at a qualifying farmers market, the distillery or craft distillery must provide the board or its designee a list of the dates, times, and locations at which bottled spirits may be offered for sale. This list must be received by the board before the spirits may be offered for sale at a qualifying farmers market.

(c) Each approved location in a qualifying farmers market is deemed to be part of the distillery or craft distillery license for the purpose of this title. The approved locations under an endorsement granted under this subsection do not include tasting or sampling privileges. The distillery or craft distillery may not store spirits at a farmers market beyond the hours that the bottled spirits are offered for sale. The distillery or craft distillery may not act as a distributor from a farmers market location.

(d) Before a distillery or craft distillery may sell bottled spirits at a qualifying farmers market, the farmers market must apply to the board for authorization for any distillery or craft distillery with an endorsement approved under this subsection to sell bottled spirits at retail at the farmers market. This application must include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved distillery or craft distillery may sell bottled spirits; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled spirits may be sold. Before authorizing a qualifying farmers market to allow an approved distillery or craft distillery to sell bottled spirits at retail at its farmers market location, the board must notify the persons or entities of such application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection (4)(d) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(e) For the purposes of this subsection (4), "qualifying farmers market" has the same meaning as defined in RCW 66.24.170.

(5) The board must adopt rules to implement the alcohol server permit requirement and may adopt additional rules to implement this section.

~~((5))~~ (6) Distilling is an agricultural practice.

**Sec. 3.** RCW 66.20.010 and 2013 c 59 s 1 are each amended to read as follows:

Upon application in the prescribed form being made to any employee authorized by the board to issue permits, accompanied by payment of the prescribed fee, and upon the employee being satisfied that the applicant should be granted a permit under this title, the employee must issue to the applicant under such regulations and at such fee as may be prescribed by the board a permit of the class applied for, as follows:

(1) Where the application is for a special permit by a physician or dentist, or by any person in charge of an institution regularly



conducted as a hospital or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(2) Where the application is for a special permit by a person engaged within the state in mechanical or manufacturing business or in scientific pursuits requiring alcohol for use therein, or by any private individual, a special permit to purchase alcohol for the purpose named in the permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(3) Where the application is for a special permit to consume liquor at a banquet, at a specified date and place, a special permit to purchase liquor for consumption at such banquet, to such applicants as may be fixed by the board;

(4) Where the application is for a special permit to consume liquor on the premises of a business not licensed under this title, a special permit to purchase liquor for consumption thereon for such periods of time and to such applicants as may be fixed by the board;

(5) Where the application is for a special permit by a manufacturer to import or purchase within the state alcohol, malt, and other materials containing alcohol to be used in the manufacture of liquor, or other products, a special permit;

(6) Where the application is for a special permit by a person operating a drug store to purchase liquor at retail prices only, to be thereafter sold by such person on the prescription of a physician, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(7) Where the application is for a special permit by an authorized representative of a military installation operated by or for any of the armed forces within the geographical boundaries of the state of Washington, a special permit to purchase liquor for use on such military installation;

(8) Where the application is for a special permit by a vendor that manufactures or sells a product which cannot be effectively presented to potential buyers without serving it with liquor or by a manufacturer, importer, or distributor, or representative thereof, to serve liquor without charge to delegates and guests at a convention of a trade association composed of licensees of the board, when the said liquor is served in a hospitality room or from a booth in a board-approved suppliers' display room at the convention, and when the liquor so served is for consumption in the said hospitality room or display room during the convention, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(9) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate liquor for a reception, breakfast, luncheon, or dinner for delegates and guests at a convention of a trade association composed of licensees of the board, when the liquor so donated is for consumption at the said reception, breakfast, luncheon, or dinner during the convention, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(10) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate and/or serve liquor without charge to delegates and guests at an international trade fair, show, or exposition held under the auspices of a federal, state, or local governmental entity or

organized and promoted by a nonprofit organization, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a liquor spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(11) Where the application is for an annual special permit by a person operating a bed and breakfast lodging facility to donate or serve wine or beer without charge to overnight guests of the facility if the wine or beer is for consumption on the premises of the facility. "Bed and breakfast lodging facility," as used in this subsection, means a facility offering from one to eight lodging units and breakfast to travelers and guests;

(12) Where the application is for a special permit to allow tasting of alcohol by persons at least eighteen years of age under the following circumstances:

(a) The application is from a community or technical college as defined in RCW 28B.50.030;

(b) The person who is permitted to taste under this subsection is enrolled as a student in a required or elective class that is part of a culinary, wine technology, beer technology, or spirituous technology-related degree program;

(c) The alcohol served to any person in the degree-related programs under (b) of this subsection is tasted but not consumed for the purposes of educational training as part of the class curriculum with the approval of the educational provider;

(d) The service and tasting of alcoholic beverages is supervised by a faculty or staff member of the educational provider who is twenty-one years of age or older. The supervising faculty or staff member shall possess a class 12 or 13 alcohol server permit under the provisions of RCW 66.20.310;

(e) The enrolled student permitted to taste the alcoholic beverages does not purchase the alcoholic beverages; and

(f) The permit fee for the special permit provided for in this subsection (12) ~~(shall)~~ must be waived by the board;

(13) Where the application is for a special permit by a distillery or craft distillery for an event not open to the general public to be held or conducted at a specific place, including at the licensed premise of the applying distillery or craft distillery, upon a specific date for the purpose of tasting and selling spirits of its own production. The distillery or craft distillery must obtain a permit for a fee of ten dollars per event. An application for the permit must be submitted for private banquet permits prior to the event and, once issued, must be posted in a conspicuous place at the premises for which the permit was issued during all times the permit is in use. No licensee may receive more than twelve permits under this subsection (13) each year.

**NEW SECTION. Sec. 4.** A new section is added to chapter 66.20 RCW to read as follows:

(1) The holder of a license to operate a distillery or craft distillery issued under RCW 66.24.140 or 66.24.145 may accept orders for spirits from, and deliver spirits to, customers if all of the following conditions are met for each sale:

(a) Spirits are not used for resale;

(b) Spirits come directly from the distillery's or craft distillery's possession prior to shipment or delivery. All transactions are to be treated as if they were conducted in the retail location of the distillery or craft distillery regardless of how they are received or processed;

(c) Spirits may be ordered in person at a licensed location, by mail, telephone, or internet, or by other similar methods; and

(d) Only a distillery or craft distillery licensee or a licensee's direct employees may accept and process orders and payments. A contractor may not do so on behalf of a distillery or craft distillery licensee, except for transmittal of payment through a third-party service. A third-party service may not solicit customer business on behalf of a distillery or craft distillery licensee.

(2) All orders and payments must be fully processed before spirits transfers ownership or, in the case of delivery, leaves a licensed distillery's or craft distillery's possession.

(3) Payment methods include, but are not limited to: Cash, credit or debit card, check or money order, electronic funds transfer, or an existing prepaid account. An existing prepaid account may not have a negative balance.

(4) To sell spirits via the internet, a new distillery or craft distillery license applicant must request internet-sales privileges in his or her application. An existing distillery or craft distillery licensee must notify the board prior to beginning internet sales. A corporate entity representing multiple licensees may notify the board in a single letter on behalf of affiliated distillery or craft distillery licensees, as long as the liquor license numbers of all licensee locations utilizing internet sales privileges are clearly identified.

(5) Delivery may be made only to a residence or business that has an address recognized by the United States postal service; however, the board may grant an exception to this rule at its discretion. A residence includes a hotel room, a motel room, marina, or other similar lodging that temporarily serves as a residence.

(6) Spirits may be delivered each day of the week between the hours of 6:00 a.m. and 2:00 a.m. Delivery must be fully completed by 2:00 a.m.

(7) Under chapter 66.44 RCW, any person under twenty-one years of age is prohibited from purchasing, delivering, or accepting delivery of liquor.

(a) A delivery person must verify the age of the person accepting delivery before handing over liquor.

(b) If no person twenty-one years of age or older is present to accept a liquor order at the time of delivery, the liquor must be returned.

(8) Delivery of liquor is prohibited to any person who shows signs of intoxication.

(9)(a) Individual units of spirits must be factory sealed in bottles. For the purposes of this subsection, "factory sealed" means that a unit is in one hundred percent resalable condition, with all manufacturer's seals intact.

(b) The outermost surface of a liquor package, delivered by a third party, must have language stating that:

- (i) The package contains liquor;
- (ii) The recipient must be twenty-one years of age or older; and
- (iii) Delivery to intoxicated persons is prohibited.

(10)(a) Records and files must be retained at the licensed premises. Each delivery sales record must include the following:

- (i) Name of the purchaser;
- (ii) Name of the person who accepts delivery;
- (iii) Street addresses of the purchaser and the delivery location;

and

(iv) Time and date of purchase and delivery.

(b) A private carrier must obtain the signature of the person who receives liquor upon delivery.

(c) A sales record does not have to include the name of the delivery person, but it is encouraged.

(11) Web site requirements. When selling over the internet, all web site pages associated with the sale of liquor must display the distillery or craft distillery licensee's registered trade name.

(12) A distillery or craft distillery licensee is accountable for all deliveries of liquor made on its behalf.

(13) The board may impose administrative enforcement action upon a licensee, or suspend or revoke a licensee's delivery privileges, or any combination thereof, should a licensee violate any condition, requirement, or restriction.

**NEW SECTION. Sec. 5.** A new section is added to chapter 66.24 RCW to read as follows:

(1) Any licensee authorized to sell at retail under this chapter may sell gift certificates and gift cards intended to be exchanged for consumer goods or services, including liquor sold by the licensee. The licensee may also sell the gift certificates and gift cards to or through a third-party retailer for resale to the public. Gift certificates and gift cards may not be redeemed for alcohol by persons under the age of twenty-one.

(2) For the purposes of this section, "gift certificate" and "gift cards" have the same meaning as provided in RCW 19.240.010." Correct the title.

Signed by Representatives Hurst, Chair; Wylie, Vice Chair; Condotta, Ranking Minority Member; Holy, Assistant Ranking Minority Member; Blake; Kirby; Scott; Van De Wege and Vick.

Passed to Committee on Rules for second reading.

March 26, 2015

SSB 5381

Prime Sponsor, Committee on Law & Justice:  
Creating a protocol for the return of firearms in the possession of law enforcement agencies.  
Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 9.41 RCW to read as follows:

(1) Each law enforcement agency shall develop a notification protocol that allows a family or household member to use an incident or case number to request to be notified when a law enforcement agency returns a privately owned firearm to the individual from whom it was obtained or to an authorized representative of that person.

(a) Notification may be made via telephone, email, text message, or another method that allows notification to be provided without unnecessary delay.

(b) If a law enforcement agency is in possession of more than one privately owned firearm from a single person, notification relating to the return of one firearm shall be considered notification for all privately owned firearms for that person.

(c) "Family or household member" has the same meaning as in RCW 26.50.010.

(2) A law enforcement agency shall not provide notification to any party other than a family or household member who has an incident or case number and who has requested to be notified pursuant to this section or another criminal justice agency.

(3) The information provided by a family or household member pursuant to this act, including the existence of the request for notification, is not subject to public disclosure pursuant to chapter 42.56 RCW.

(4) An appointed or elected official, public employee, or public agency as defined in RCW 4.24.470, or combination of units of local government and its employees, as provided in RCW 36.28A.010, are immune from civil liability for damages for any release of information or the failure to release information related to this section, so long as the release or failure was without gross negligence.

(5) An individual who knowingly makes a request for notification under this section based on false information may be held liable under RCW 9A.76.175.

**NEW SECTION. Sec. 2.** A new section is added to chapter 9.41 RCW to read as follows:

(1) Before a law enforcement agency returns a privately owned firearm, the law enforcement agency must:

- (a) Confirm that the individual to whom the firearm will be returned is the individual from whom the firearm was obtained or an authorized representative of that person;
- (b) Confirm that the individual to whom the firearm will be returned is eligible to possess a firearm pursuant to RCW 9.41.040;
- (c) Ensure that the firearm is not otherwise required to be held in custody or otherwise prohibited from being released; and
- (d) Ensure that twenty-four hours have elapsed from the time the firearm was obtained by law enforcement.

(2)(a) Once the requirements in subsections (1) and (3) of this section have been met, a law enforcement agency must release a firearm to the individual from whom it was obtained or an authorized representative of that person upon request without unnecessary delay.

(b)(i) If a firearm cannot be returned because it is required to be held in custody or is otherwise prohibited from being released, a law enforcement agency must provide written notice to the individual from whom it was obtained within five business days of the individual requesting return of his or her firearm and specify the reason the firearm must be held in custody.

(ii) Notification may be made via email, text message, mail service, or personal service. For methods other than personal service, service shall be considered complete once the notification is sent.

(3) If a family or household member has requested to be notified pursuant to section 1 of this act, a law enforcement agency must:

(a) Provide notice to the family or household member within one business day of verifying that the requirements in subsection (1) of this section have been met; and

(b) Hold the firearm in custody for seventy-two hours from the time notification has been provided.

**NEW SECTION. Sec. 3.** This act may be known and cited as the Sheena Henderson act."

Correct the title.

Signed by Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Goodman; Haler; Hansen; Kirby; Klippert; Muri; Orwall; Stokesbary and Walkinshaw.

MINORITY recommendation: Do not pass. Signed by Representative Shea, Assistant Ranking Minority Member.

Passed to Committee on Rules for second reading.

March 26, 2015

**SSB 5398** Prime Sponsor, Committee on Commerce & Labor: Concerning marijuana, useable marijuana, and marijuana-infused products in public. Reported by Committee on Commerce & Gaming

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 69.50.445 and 2013 c 3 s 21 are each amended to read as follows:

(1) It is unlawful to open a package containing marijuana, useable marijuana, ~~((or a))~~ marijuana-infused products, or marijuana concentrate, or consume marijuana, useable marijuana, ~~((or a))~~ marijuana-infused products, or marijuana concentrate, in ~~((view of the general))~~ a public place.

(2) For the purposes of this section, "public place" has the same meaning as defined in RCW 66.04.010, but the exclusions in RCW 66.04.011 do not apply.

(3) A person who violates this section is guilty of a class 3 civil infraction under chapter 7.80 RCW."

Correct the title.

Signed by Representatives Hurst, Chair; Wylie, Vice Chair; Condotta, Ranking Minority Member; Holy, Assistant Ranking Minority Member; Blake; Kirby; Scott; Van De Wege and Vick.

Passed to Committee on Rules for second reading.

March 26, 2015

**SSB 5436** Prime Sponsor, Committee on Health Care: Concerning the joint legislative executive committee on aging and disability. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 74.39A RCW to read as follows:

(1)(a) A joint legislative executive committee on aging and disability is established, with members as provided in this subsection.

(i) Four members of the senate, with the leaders of the two largest caucuses each appointing two members, who are voting members;

(ii) Four members of the house of representatives, with the leaders of the two largest caucuses each appointing two members, who are voting members;

(iii) A member from the office of the governor, appointed by the governor, who is a voting member;

(iv) The secretary of the department of social and health services or his or her designee, who shall serve as an ex officio member;

(v) The director of the health care authority or his or her designee, who shall serve as an ex officio member;

(vi) The insurance commissioner or his or her designee, who shall serve as an ex officio member; and

(vii) The director of the department of retirement systems or his or her designee, who shall serve as an ex officio member.

(b) The cochairs must be selected from among the members who are legislators. The cochairs who served as the cochairs of the joint legislative executive committee on aging and disability created in section 206, chapter 4, Laws of 2013 2nd sp. sess. must convene the initial meeting of the committee. All meetings of the committee are open to the public.

(c) The purpose of the committee is to identify key strategic actions to prepare for the aging of the population in Washington, including state budget and policy options, by conducting at least, but not limited to, the following tasks:

(i) Identify state budget and policy options to more effectively use state, federal, and private resources to, over time, reduce the growth rate in state expenditures that would otherwise occur by continuing current policy in light of significant population growth, particularly in the aging and disabled demographic;

(ii) Identify strategies to better serve the health care needs of an aging population and people with disabilities and promote healthy living, including the use of technology;

(iii) Consider the recommendations of the Bree collaborative regarding advance care planning and develop implementation

strategies to educate people about advance care planning, make advance planning documents accessible and available in clinical and community settings, and increase compliance by health care providers and facilities with the advance planning wishes of patients;

(iv) Review the regulation of continuing care retirement communities and ways to protect those who reside in them, including the consideration of effective disclosures to residents;

(v) Identify the needs of older people and people with disabilities for high quality public and private guardianship services and information about assisted decision-making options;

(vi) Identify options for promoting client safety through residential care services and consider methods of protecting older people and people with disabilities from physical abuse and financial exploitation;

(vii) Identify policy options to create financing mechanisms for long-term services and supports that will promote additional private responsibility for individuals and families to meet their needs for

service;

(viii) Identify policies to promote financial security in retirement, support people who wish to stay in the workplace longer, and expand the availability of workplace retirement savings plans; and

(ix) Identify policy options to help communities adapt to the aging demographic in planning for housing, land use, and transportation.

(d) The committee shall consult with the office of the insurance commissioner, the caseload forecast council, the health care authority, and other appropriate entities with specialized knowledge of the needs and growth trends of the aging population and people with disabilities.

(e) The office of program research, senate committee services, the office of financial management, and the department of social and health services shall provide staff support for the committee.

(f) Within existing appropriations, the cost of meetings must be paid jointly by the senate, the house of representatives, and the office of financial management. Joint committee expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees. The committee members may be reimbursed for travel expenses as authorized under RCW 43.03.050 and 43.03.060, and chapter 44.04 RCW as appropriate. Advisory committee members may not receive compensation or reimbursement for travel and expenses.

(2) This section expires December 1, 2017."

Correct the title.

Signed by Representatives Cody, Chair; Riccelli, Vice Chair; Clibborn; Jinkins; Johnson; Moeller; Robinson; Tharinger and Van De Wege.

MINORITY recommendation: Do not pass. Signed by Representatives Schmick, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Caldier; Rodne and Short.

Passed to Committee on Rules for second reading.

March 26, 2015

ESSB 5441 Prime Sponsor, Committee on Health Care: Addressing patient medication coordination. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 48.43 RCW to read as follows:

(1) A health benefit plan issued or renewed after December 31, 2015, that provides coverage for prescription drugs must implement a medication synchronization policy for the dispensing of prescription drugs to the plan's enrollees.

(a) If an enrollee requests medication synchronization for a new prescription, the health plan must permit filling the drug: (i) For less than a one-month supply of the drug if synchronization will require more than a fifteen-day supply of the drug; or (ii) for more than a one-month supply of the drug if synchronization will require a fifteen-day supply of the drug or less.

(b) The health plan must establish a daily cost-sharing rate and apply it to a prescription presented to a network pharmacy for a covered drug that is dispensed for more or less than a one-month supply if the drug is in the form of a solid oral dose. This requirement does not apply to: (i) Solid oral doses of antibiotics; or (ii) solid oral doses that are dispensed in their original container or are customarily dispensed in their original packaging to assist patients with compliance.

(c) In the case of a drug that would incur a copayment, the health plan must apply cost-sharing as calculated by multiplying the applicable daily cost-sharing rate by the days' supply actually dispensed when the enrollee receives more or less than a one-month supply. In the case of a drug that would incur a coinsurance percentage, the health plan must apply the coinsurance percentage for the drug to the days' supply actually dispensed.

(2) Upon request of an enrollee, the prescribing provider or pharmacist shall:

(a) Determine that filling or refilling the prescription is in the best interest of the enrollee, taking into account the appropriateness of synchronization for the drug being dispensed;

(b) Inform the enrollee that the prescription will be filled to less than the standard refill amount for the purpose of synchronizing his or her medications; and

(c) Deny synchronization on the grounds of threat to patient safety or suspected fraud or abuse.

(3) For purposes of this section, the following terms have the following meanings unless the context clearly requires otherwise:

(a) "Daily cost-sharing rate" means, as applicable, the established: (i) Monthly copayment under the enrollee's plan, divided by the number of days in a one-month supply for the drug dispensed and rounded to the nearest cent; or (ii) coinsurance percentage under the enrollee's plan.

(b) "Medication synchronization" means the coordination of medication refills for a patient taking two or more medications for a chronic condition such that the patient's medications are refilled on the same schedule for a given time period.

(c) "Prescription" has the same meaning as in RCW 18.64.011.

**NEW SECTION. Sec. 2.** A new section is added to chapter 41.05 RCW to read as follows:

(1) A health benefit plan offered to public employees and their covered dependents under this chapter that is not subject to chapter 48.43 RCW, that is issued or renewed after December 31, 2015, and that provides coverage for prescription drugs must implement a medication synchronization policy for the dispensing of prescription drugs to the plan's enrollees.

(a) If an enrollee requests medication synchronization for a new prescription, the health plan must permit filling the drug: (i) For less than a one-month supply of the drug if synchronization will require more than a fifteen-day supply of the drug; or (ii) for more than a one-month supply of the drug if synchronization will require a fifteen-day supply of the drug or less.

(b) The health plan must establish a daily cost-sharing rate and apply it to a prescription presented to a network pharmacy for a covered drug that is dispensed for more or less than a one-month supply if the drug is in the form of a solid oral dose. This requirement does not apply to: (i) Solid oral doses of antibiotics; or (ii) solid oral doses that are dispensed in their original container or are customarily dispensed in their original packaging to assist patients with compliance.

(c) In the case of a drug that would incur a copayment, the health plan must apply cost-sharing as calculated by multiplying the applicable daily cost-sharing rate by the days' supply actually dispensed when the enrollee receives more or less than a one-month supply. In the case of a drug that would incur a coinsurance percentage, the health plan must apply the coinsurance percentage for the drug to the days' supply actually dispensed.

(2) Upon request of an enrollee, the prescribing provider or pharmacist shall:

(a) Determine that filling or refilling the prescription is in the best interest of the enrollee, taking into account the appropriateness of synchronization for the drug being dispensed;

(b) Inform the enrollee that the prescription will be filled to less than the standard refill amount for the purpose of synchronizing his or her medications; and

(c) Deny synchronization on the grounds of threat to patient safety or suspected fraud or abuse.

(3) For purposes of this section, the following terms have the following meanings unless the context clearly requires otherwise:

(a) "Daily cost-sharing rate" means, as applicable, the established: (i) Monthly copayment under the enrollee's plan, divided by the number of days in a one-month supply for the drug dispensed and rounded to the nearest cent; or (ii) coinsurance percentage under the enrollee's plan.

(b) "Medication synchronization" means the coordination of medication refills for a patient taking two or more medications for a chronic condition such that the patient's medications are refilled on the same schedule for a given time period.

(c) "Prescription" has the same meaning as in RCW 18.64.011."

Correct the title.

Signed by Representatives Cody, Chair; Riccelli, Vice Chair; Schmick, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Caldier; Clibborn; Jinkins; Johnson; Moeller; Robinson; Rodne; Short; Tharinger and Van De Wege.

Passed to Committee on Rules for second reading.

March 26, 2015

SSB 5448 Prime Sponsor, Committee on Health Care: Requiring a study of the effects long-term antibiotic therapy has on certain Lyme disease patients. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chair; Riccelli, Vice Chair; Clibborn; Jinkins; Moeller; Robinson; Tharinger and Van De Wege.

MINORITY recommendation: Do not pass. Signed by Representatives Harris, Assistant Ranking Minority Member; Caldier and Short.

MINORITY recommendation: Without recommendation. Signed by Representatives Schmick, Ranking Minority Member; Johnson and Rodne.

Passed to Committee on Rules for second reading.

March 26, 2015

E2SSB 5452 Prime Sponsor, Committee on Ways & Means: Improving quality in the early care and education system. Reported by Committee on Early Learning & Human Services

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1. INTENT.** (1) The legislature finds that quality early care and education builds the foundation for a child's success in school and in life. The legislature acknowledges that a quality framework is necessary for the early care and education system in Washington. The legislature recognizes that empirical evidence supports the conclusion that high quality programs consistently yield more positive outcomes for children, with the strongest positive impacts on the most vulnerable children. The legislature acknowledges that critical developmental windows exist in early childhood, and low quality child care has damaging effects for children. The legislature further understands that the proper dosage, duration of programming, and stability of care are critical to enhancing program quality and improving child outcomes. The legislature acknowledges that the early care and education system should strive to address the needs of Washington's culturally and linguistically diverse populations. The legislature understands that parental choice and provider diversity are guiding principles for early learning programs.

(2) The legislature intends to prioritize the integration of child care and preschool in an effort to promote full day programming. The legislature further intends to reward quality and create incentives for providers to participate in a quality rating and improvement system that will also provide valuable information to parents regarding the quality of care available in their communities.

**Sec. 2.** RCW 43.215.100 and 2013 c 323 s 6 are each amended to read as follows:

EARLY ACHIEVERS, QUALITY RATING, AND IMPROVEMENT SYSTEM.

(1) (~~Subject to the availability of amounts appropriated for this specific purpose,~~) The department, in collaboration with tribal governments and community and statewide partners, shall implement a (~~voluntary~~) quality rating and improvement system, called the early achievers program(~~, that~~). The early achievers program provides a foundation of quality for the early care and education system. The early achievers program is applicable to licensed or certified child care centers and homes and early (~~education~~) learning programs such as working connections child care and early childhood education and assistance programs.

(2) The (~~purpose~~) objectives of the early achievers program (~~is~~) are to:

(a) (~~To~~) Improve short-term and long-term educational outcomes for children as measured by assessments including, but not limited to, the Washington kindergarten inventory of developing skills in RCW 28A.655.080;

(b) Give parents clear and easily accessible information about the quality of child care and early education programs(=);

(c) Support improvement in early learning and child care programs throughout the state(=);

(d) Increase the readiness of children for school(=and);

(e) Close the (~~disparity~~) disparities in access to quality care;

(f) Provide professional development and coaching opportunities to early child care and education providers; and ((b) to))

(g) Establish a common set of expectations and standards that define, measure, and improve the quality of early learning and child care settings.

(3)(a) Licensed or certified child care centers and homes serving nonschool age children and receiving state subsidy payments must participate in the early achievers program by the required deadlines established in RCW 43.215.135.

(b) Approved early childhood education and assistance program providers receiving state-funded support must participate in the early achievers program by the required deadlines established in RCW 43.215.415.

(c) Participation in the early achievers program is voluntary for:

(i) Licensed or certified child care centers and homes not receiving state subsidy payments; and

(ii) Early learning programs not receiving state funds.

(d) School age child care providers are exempt from participating in the early achievers program. By July 1, 2017, the department and the office of the superintendent of public instruction shall jointly design a plan to incorporate school age child care providers into the early achievers program or other appropriate quality improvement system. To test implementation of the early achievers system for school age child care providers the department and the office of the superintendent of public instruction shall implement a pilot program.

(4) ((By fiscal year 2015, Washington state preschool programs receiving state funds must enroll in the early achievers program and maintain a minimum score level.

(5) Before final implementation of the early achievers program, the department shall report on program progress, as defined within the race to the top federal grant award, and expenditures to the appropriate policy and fiscal committees of the legislature.)) There are five levels in the early achievers program. Participants are expected to actively engage and continually advance within the program.

(5) The department has the authority to determine the rating cycle for the early achievers program. The department shall streamline and eliminate duplication between early achievers standards and state child care rules in order to reduce costs associated with the early achievers rating cycle and child care licensing.

(a) Early achievers program participants may request to be rated at any time after the completion of all level 2 activities.

(b) The department shall provide an early achievers program participant an update on the participant's progress toward completing level 2 activities after the participant has been enrolled in the early achievers program for fifteen months.

(c) The first rating is free for early achievers program participants.

(d) Each subsequent rating within the established rating cycle is free for early achievers program participants.

(6)(a) Early achievers program participants may request to be rerated outside the established rating cycle.

(b) The department may charge a fee for optional rerating requests made by program participants that are outside the established rating cycle.

(c) Fees charged are based on, but may not exceed, the cost to the department for activities associated with the early achievers program.

(7)(a) The department must create a single source of information for parents and caregivers to access details on a provider's early achievers program rating level, licensing history,

and other indicators of quality and safety that will help parents and caregivers make informed choices.

(b) The department shall publish to the department's web site, or offer a link on its web site to, the following information:

(i) By August 1, 2015, early achievers program rating levels 1 through 5 for all child care programs that receive state subsidy, early childhood education and assistance programs, and federal head start programs in Washington; and

(ii) New early achievers program ratings within thirty days after a program becomes licensed or certified, or receives a rating.

(c) The early achievers program rating levels shall be published in a manner that is easily accessible to parents and caregivers and takes into account the linguistic needs of parents and caregivers.

(d) The department must publish early achievers program rating levels for child care programs that do not receive state subsidy but have voluntarily joined the early achievers program.

(e) Early achievers program participants who have published rating levels on the department's web site or on a link on the department's web site may include a brief description of their program, contingent upon the review and approval by the department, as determined by established marketing standards.

(8)(a) The department shall create a professional development pathway for early achievers program participants to obtain a high school diploma or equivalency or higher education credential in early childhood education, early childhood studies, child development, or an academic field related to early care and education.

(b) The professional development pathway must include opportunities for scholarships and grants to assist early achievers program participants with the costs associated with obtaining an educational degree.

(c) The department shall address cultural and linguistic diversity when developing the professional development pathway.

(9) The early achievers quality improvement awards shall be reserved for participants offering programs to an enrollment population consisting of at least five percent of children receiving a state subsidy.

(10) In collaboration with tribal governments, community and statewide partners, and the early achievers review subcommittee created in RCW 43.215.090, the department shall develop a protocol for granting early achievers program participants an extension in meeting rating level requirement timelines outlined for the working connections child care program and the early childhood education and assistance program.

(a) The department may grant extensions only under exceptional circumstances, such as when early achievers program participants experience an unexpected life circumstance.

(b) Extensions shall not exceed six months, and early achievers program participants are only eligible for one extension in meeting rating level requirement timelines.

(c) Extensions may only be granted to early achievers program participants who have demonstrated engagement in the early achievers program.

(11)(a) The department shall accept national accreditation that meets the requirements of this subsection (11) as a qualification for the early achievers program ratings.

(b) Each national accreditation agency will be allowed to submit its most current standards of accreditation to establish potential credit earned in the early achievers program. The department shall grant credit to accreditation bodies that can demonstrate that their standards meet or exceed the current early achievers program standards.

(c) Licensed child care centers and child care home providers must meet national accreditation standards approved by the department for the early achievers program in order to be granted credit for the early achievers program standards. Eligibility for the

early achievers program is not subject to bargaining, mediation, or interest arbitration under RCW 41.56.028, consistent with the legislative reservation of rights under RCW 41.56.028(4)(d).

(12) A child care or early learning program that is operated by a federally recognized tribe and receives state funds shall participate in the early achievers program. The tribe may choose to participate through an interlocal agreement between the tribe and the department. The interlocal agreement must reflect the government-to-government relationship between the state and the tribe, including recognition of tribal sovereignty. The interlocal agreement must provide that:

(a) Tribal child care facilities and early learning programs may volunteer, but are not required, to be licensed by the department;

(b) Tribal child care facilities and early learning programs are not required to have their early achievers program rating level published to the department's web site or through a link on the department's web site; and

(c) Tribal child care facilities and early learning programs must provide notification to parents or guardians who apply for or have been admitted into their program that early achievers program rating level information is available and provide the parents or guardians with the program's early achievers program rating level upon request.

(13) The department shall consult with the early achievers review subcommittee on all substantial policy changes to the early achievers program.

(14) Nothing in this section changes the department's responsibility to collectively bargain over mandatory subjects or limits the legislature's authority to make programmatic modifications to licensed child care and early learning programs under RCW 41.56.028(4)(d).

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.215 RCW to read as follows:

**SINGLE SET OF LICENSING STANDARDS.**

(1) No later than July 1, 2016, the department shall implement a single set of licensing standards for child care and the early childhood education and assistance program. The department shall produce the single set of licensing standards within the department's available appropriations. The new licensing standards must:

(a) Provide minimum health and safety standards for child care and preschool programs;

(b) Rely on the standards established in the early achievers program to address quality issues in participating early childhood programs;

(c) Take into account the separate needs of family care providers and child care centers; and

(d) Promote the continued safety of child care settings.

(2) Private schools that operate early learning programs and do not receive state subsidy payments shall be subject only to state licensing requirements necessary to assure the health and safety of all students in the state and to assure a sufficient early childhood education to meet usual requirements needed for transition into elementary school. The state, and any agency thereof, shall not restrict or dictate any specific educational or other programs for early learning programs operated by private schools except for programs that receive state subsidy payments.

**Sec. 4.** RCW 43.215.200 and 2011 c 359 s 2 and 2011 c 253 s 3 are each reenacted and amended to read as follows:

**DIRECTOR'S LICENSING DUTIES.**

It shall be the director's duty with regard to licensing:

(1) In consultation and with the advice and assistance of persons representative of the various type agencies to be licensed, to designate categories of child care facilities for which separate or different requirements shall be developed as may be appropriate whether because of variations in the ages and other characteristics

of the children served, variations in the purposes and services offered or size or structure of the agencies to be licensed, or because of any other factor relevant thereto;

(2) In consultation with the state fire marshal's office, the director shall use an interagency process to address health and safety requirements for child care programs that serve school-age children and are operated in buildings that contain public or private schools that safely serve children during times in which school is in session. For child care programs serving only school-age children and operating in the same facilities used by public or private schools, the director shall not impose additional health and safety licensing requirements related to the physical facility beyond the health and safety standards established by the state board of health for primary and secondary schools pursuant to its authority in RCW 43.20.050;

(3) In consultation and with the advice and assistance of parents or guardians, and persons representative of the various type agencies to be licensed, to adopt and publish minimum requirements for licensing applicable to each of the various categories of agencies to be licensed under this chapter;

(4) In consultation with law enforcement personnel, the director shall investigate the conviction record or pending charges of each agency and its staff seeking licensure or relicensure, and other persons having unsupervised access to children in care;

(5) To satisfy the shared background check requirements provided for in RCW 43.215.215 and 43.20A.710, the department of early learning and the department of social and health services shall share federal fingerprint-based background check results as permitted under the law. The purpose of this provision is to allow both departments to fulfill their joint background check responsibility of checking any individual who may have unsupervised access to vulnerable adults, children, or juveniles. Neither department may share the federal background check results with any other state agency or person;

(6) To issue, revoke, or deny licenses to agencies pursuant to this chapter. Licenses shall specify the category of care that an agency is authorized to render and the ages and number of children to be served;

(7) To prescribe the procedures and the form and contents of reports necessary for the administration of this chapter and to require regular reports from each licensee;

(8) To inspect agencies periodically to determine whether or not there is compliance with this chapter and the requirements adopted under this chapter;

(9) To review requirements adopted under this chapter at least every two years and to adopt appropriate changes after consultation with affected groups for child day care requirements; and

(10) To consult with public and private agencies in order to help them improve their methods and facilities for the care and early learning of children.

**NEW SECTION. Sec. 5.** A new section is added to chapter 43.215 RCW to read as follows:

**REDUCTION OF BARRIERS—LOW-INCOME PROVIDERS AND PROGRAMS—EARLY ACHIEVERS.**

(1)(a) The department shall, in collaboration with tribal governments and community and statewide partners, implement a protocol to maximize and encourage participation in the early achievers program for culturally diverse and low-income center and family home child care providers. Amounts appropriated for the encouragement of culturally diverse and low-income center and family home child care provider participation shall be appropriated separately from the other funds appropriated for the department, are the only funds that may be used for the protocol, and may not be used for any other purposes. Funds appropriated for the protocol

shall be considered an ongoing program for purposes of future departmental budget requests.

(b) During the first thirty months of implementation of the early achievers program the department shall prioritize the resources authorized in this section to assist providers rating at a level 2 in the early achievers program to help them reach a level 3 rating wherever access to subsidized care is at risk.

(2) The protocol should address barriers to early achievers program participation and include at a minimum the following:

(a) The creation of a substitute pool;

(b) The development of needs-based grants for providers at level 2 in the early achievers program to assist with purchasing curriculum development, instructional materials, supplies, and equipment to improve program quality. Priority for the needs-based grants shall be given to culturally diverse and low-income providers;

(c) The development of materials and assessments in a timely manner, and to the extent feasible, in the provider and family home languages; and

(d) The development of flexibility in technical assistance and coaching structures to provide differentiated types and amounts of support to providers based on individual need and cultural context.

**Sec. 6.** RCW 43.215.135 and 2013 c 323 s 9 are each amended to read as follows:

**WORKING CONNECTIONS CHILD CARE.**

(1) The department shall establish and implement policies in the working connections child care program to promote stability and quality of care for children from low-income households.

These policies shall focus on supporting school readiness for young learners. Policies for the expenditure of funds constituting the working connections child care program must be consistent with the outcome measures defined in RCW 74.08A.410 and the standards established in this section intended to promote ~~((continuity of care for children))~~ stability, quality, and continuity of early care and education programming.

(2) ~~((Beginning in fiscal year 2013;))~~ As recommended by Public Law 113-186, authorizations for the working connections child care subsidy shall be effective for twelve months ~~((unless a change in circumstances necessitates reauthorization sooner than twelve months. The twelve-month certification applies only if the enrollments in the child care subsidy or working connections child care program are capped.~~

~~(3) Subject to the availability of amounts appropriated for this specific purpose, beginning September 1, 2013, working connections child care providers shall receive a five percent increase in the subsidy rate for enrolling in level 2 in the early achievers programs. Providers must complete level 2 and advance to level 3 within thirty months in order to maintain this increase))~~ beginning January 1, 2016.

(3) Existing child care providers serving nonschool age children and receiving state subsidy payments must complete the following requirements to be eligible for a state subsidy under this section:

(a) Enroll in the early achievers program by August 1, 2016;

(b) Complete level 2 activities in the early achievers program by August 1, 2017; and

(c) Rate at a level 3 or higher in the early achievers program by December 31, 2019. If a child care provider rates below a level 3 by December 31, 2019, the provider must complete remedial activities with the department, and rate at a level 3 or higher no later than June 30, 2020.

(4) Effective July 1, 2016, a new child care provider serving nonschool age children and receiving state subsidy payments must complete the following activities to be eligible to receive a state subsidy under this section:

(a) Enroll in the early achievers program within thirty days of receiving the initial state subsidy payment;

(b) Complete level 2 activities in the early achievers program within twelve months of enrollment; and

(c) Rate at a level 3 or higher in the early achievers program within thirty months of enrollment. If a child care provider rates below a level 3 within thirty months from enrollment into the early achievers program, the provider must complete remedial activities with the department, and rate at a level 3 or higher within six months of beginning remedial activities.

(5) If a child care provider does not rate at a level 3 or higher following the remedial period, the provider is no longer eligible to receive state subsidy under this section.

(6) If a child care provider serving nonschool age children and receiving state subsidy payments has successfully completed all level 2 activities and is waiting to be rated by the deadline provided in this section, the provider may continue to receive a state subsidy pending the successful completion of the level 3 rating activity.

(7) The department shall implement tiered reimbursement for early achievers program participants in the working connections child care program rating at level 3, 4, or 5.

(8) The department shall account for a child care copayment collected by the provider from the family for each contracted slot and establish the copayment fee by rule.

**Sec. 7.** RCW 43.215.1352 and 2012 c 251 s 2 are each amended to read as follows:

**WORKING CONNECTIONS CHILD CARE.**

When an applicant or recipient applies for or receives working connections child care benefits, ~~((he or she))~~ the applicant or recipient is required to

~~((1))~~ notify the department of social and health services, within five days, of any change in providers ~~((and~~

~~((2))~~ Notify the department of social and health services, within ten days, about any significant change related to the number of child care hours the applicant or recipient needs, cost sharing, or eligibility).

**Sec. 8.** RCW 43.215.425 and 1994 c 166 s 6 are each amended to read as follows:

**EARLY CHILDHOOD EDUCATION AND ASSISTANCE PROGRAM.**

(1) The department shall adopt rules under chapter 34.05 RCW for the administration of the early childhood education and assistance program. Approved early childhood education and assistance programs shall conduct needs assessments of their service area ~~((s))~~ and identify any targeted groups of children, to include but not be limited to children of seasonal and migrant farmworkers and native American populations living either on or off reservation ~~((and)).~~ Approved early childhood education and assistance programs shall provide to the department a service delivery plan, to the extent practicable, that addresses these targeted populations.

(2) The department, in developing rules for the early childhood education and assistance program, shall consult with the early learning advisory ~~((committee))~~ council, and shall consider such factors as coordination with existing head start and other early childhood programs, the preparation necessary for instructors, qualifications of instructors, adequate space and equipment, and special transportation needs. The rules shall specifically require the early childhood programs to provide for parental involvement in participation with their child's program, in local program policy decisions, in development and revision of service delivery systems, and in parent education and training.

(3)(a) The department shall adopt rules pertaining to the early childhood education and assistance program that outline allowable periods of child absences, required contact with parents or



caregivers to discuss child absences and encourage regular attendance, and a de-enrollment procedure when allowable child absences are exceeded. The department shall adopt rules on child absences and attendance within the department's appropriations.

(b) Rules pertaining to child absences and de-enrollment procedures shall be adopted no later than July 31, 2016. The department shall adopt rules on child absences and attendance within the department's appropriations.

(4) The department shall adopt rules requiring early childhood education and assistance program employees who have access to children to submit to a fingerprint background check. Fingerprint background check procedures for the early childhood education and assistance program shall be the same as the background check procedures in RCW 43.215.215.

**Sec. 9.** RCW 43.215.415 and 1994 c 166 s 5 are each amended to read as follows:

**EARLY CHILDHOOD EDUCATION AND ASSISTANCE PROGRAM.**

(1) Approved early childhood education and assistance programs shall receive state-funded support through the department. Public or private (~~(nonsectarian)~~) organizations(~~(s)~~) including, but not limited to, school districts, educational service districts, community and technical colleges, local governments, or nonprofit organizations, are eligible to participate as providers of the state early childhood education and assistance program. (~~Funds appropriated for the state program shall be used to continue to operate existing programs or to establish new or expanded early childhood programs, and shall not be used to supplant federally supported head start programs.~~)

(2) Funds obtained by providers through voluntary grants or contributions from individuals, agencies, corporations, or organizations may be used to expand or enhance preschool programs so long as program standards established by the department are maintained(~~, but shall not be used to supplant federally supported head start programs or state supported early childhood programs~~).

(3) Persons applying to conduct the early childhood education and assistance program shall identify targeted groups and the number of children to be served, program components, the qualifications of instructional and special staff, the source and amount of grants or contributions from sources other than state funds, facilities and equipment support, and transportation and personal care arrangements.

(4) Existing early childhood education and assistance program providers must complete the following requirements to be eligible to receive state-funded support under the early childhood education and assistance program:

(a) Enroll in the early achievers program by August 1, 2015;

(b) Rate at a level 4 or 5 in the early achievers program by January 1, 2016. If an early childhood education and assistance program provider rates below a level 4 by January 1, 2016, the provider must complete remedial activities with the department, and rate at a level 4 or 5 within six months of beginning remedial activities.

(5) Effective August 1, 2015, a new early childhood education and assistance program provider must complete the requirements in this subsection (5) to be eligible to receive state-funded support under the early childhood education and assistance program:

(a) Enroll in the early achievers program within thirty days of the start date of the early childhood education and assistance program contract;

(b)(i) Except as provided in (b)(ii) of this subsection, rate at a level 4 or 5 in the early achievers program within twelve months of enrollment. If an early childhood education and assistance program provider rates below a level 4 within twelve months of enrollment, the provider must complete remedial activities with the

department, and rate at a level 4 or 5 within six months of beginning remedial activities.

(ii) Licensed or certified child care centers and homes that administer an early childhood education and assistance program shall rate at a level 4 or 5 in the early achievers program within eighteen months of the start date of the early childhood education and assistance program contract. If an early childhood education and assistance program provider rates below a level 4 within eighteen months, the provider must complete remedial activities with the department, and rate at a level 4 or 5 within six months of beginning remedial activities.

(6)(a) If an early childhood education and assistance program provider has successfully completed all of the required early achievers program activities and is waiting to be rated by the deadline provided in this section, the provider may continue to participate in the early achievers program as an approved early childhood education and assistance program provider and receive state subsidy pending the successful completion of a level 4 or 5 rating.

(b) To avoid disruption, the department may allow for early childhood education and assistance program providers who have rated below a level 4 after completion of the six-month remedial period to continue to provide services until the current school year is finished.

(7) The department shall collect data periodically to determine the demand for full-day programming for early childhood education and assistance program providers. The department shall analyze this demand by geographic region and shall include the findings in the annual report required under section 17(5) of this act.

(8) By December 1, 2015, the department shall develop a pathway for licensed or certified child care centers and homes to administer an early childhood education and assistance program. The pathway shall include an accommodation for these providers to rate at a level 4 or 5 in the early achievers program according to the timelines and standards established in subsection (5)(b)(ii) of this section.

**Sec. 10.** RCW 43.215.430 and 2013 c 323 s 7 are each amended to read as follows:

**EARLY CHILDHOOD EDUCATION AND ASSISTANCE PROGRAM.**

The department shall review applications from public or private (~~(nonsectarian)~~) organizations for state funding of early childhood education and assistance programs. The department shall consider local community needs, demonstrated capacity, and the need to support a mixed delivery system of early learning that includes alternative models for delivery including licensed centers and licensed family child care providers when reviewing applications.

**Sec. 11.** RCW 43.215.455 and 2010 c 231 s 3 are each amended to read as follows:

**EARLY CHILDHOOD EDUCATION AND ASSISTANCE PROGRAM.**

(1) Beginning September 1, 2011, an early learning program to provide voluntary preschool opportunities for children three and four years of age shall be implemented according to the funding and implementation plan in RCW (~~(43.215.142)~~) 43.215.456. The program must (~~(be)~~) offer a comprehensive program (~~(providing)~~) of early childhood education and family support, (~~(options for)~~) including parental involvement(~~(s)~~) and health information, screening, and referral services, (~~(as)~~) based on family need (~~(is determined)~~). Participation in the program is voluntary. On a space available basis, the program may allow enrollment of children who are not otherwise eligible by assessing a fee.

(2) The (~~(first phase of the)~~) program shall be implemented by utilizing the program standards and eligibility criteria in the early

childhood education and assistance program in RCW 43.215.400 through 43.215.450.

(3)(a) Beginning in the 2015-16 school year, the program implementation in this section shall prioritize early childhood education and assistance programs located in low-income neighborhoods within high-need geographical areas.

(b) Following the priority in (a) of this subsection, preference shall be given to programs meeting at least one of the following characteristics:

(i) Programs offering an extended day program for early care and education;

(ii) Programs offering services to children diagnosed with a special need; or

(iii) Programs offering services to children involved in the child welfare system.

(4) The director shall adopt rules for the following program components, as appropriate and necessary during the phased implementation of the program, consistent with early achievers program standards established in RCW 43.215.100:

(a) Minimum program standards(~~(-including lead teacher, assistant teacher, and staff qualifications)~~);

(b) Approval of program providers; and

(c) Accountability and adherence to performance standards.

~~((4))~~ (5) The department has administrative responsibility for:

(a) Approving and contracting with providers according to rules developed by the director under this section;

(b) In partnership with school districts, monitoring program quality and assuring the program is responsive to the needs of eligible children;

(c) Assuring that program providers work cooperatively with school districts to coordinate the transition from preschool to kindergarten so that children and their families are well-prepared and supported; and

(d) Providing technical assistance to contracted providers.

**NEW SECTION. Sec. 12.** A new section is added to chapter 43.215 RCW to read as follows:

**PROGRAM DATA COLLECTION AND EVALUATION.**

(1) The education data center established in RCW 43.41.400 must collect longitudinal, student-level data on all children attending an early childhood education and assistance program. Upon completion of an electronic time and attendance record system, the education data center must collect longitudinal, student-level data on all children attending a working connections child care program. Data collected should capture at a minimum the following characteristics:

(a) Daily program attendance;

(b) Identification of classroom and teacher;

(c) Early achievers program quality level rating;

(d) Program hours;

(e) Program duration;

(f) Developmental results from the Washington kindergarten inventory of developing skills in RCW 28A.655.080; and

(g) To the extent data is available, the distinct ethnic categories within racial subgroups of children and providers that align with categories recognized by the education data center.

(2) The department shall provide early learning providers student-level data collected pursuant to this section that are specific to the early learning provider's program. Upon completion of an electronic time and attendance record system identified in subsection (1) of this section, the department shall provide child care providers student-level data that are specific to the child care provider's program.

(3)(a) The department shall review available research and best practices literature on cultural competency in early learning settings. The department shall review the K-12 components for cultural competency developed by the professional educator

standards board and identify components appropriate for early learning professional development.

(b) By July 31, 2016, the department shall provide recommendations to the appropriate committees of the legislature and the early learning advisory council on research-based cultural competency standards for early learning professional training.

(4)(a) The Washington state institute for public policy shall conduct a longitudinal analysis examining relationships between the early achievers program quality ratings levels and outcomes for children participating in subsidized early care and education programs.

(b) The institute shall submit the first report to the appropriate committees of the legislature and the early learning advisory council by December 31, 2019. The institute shall submit subsequent reports annually to the appropriate committees of the legislature and the early learning advisory council by December 31st, with the final report due December 31, 2022. The final report shall include a cost-benefit analysis.

(5)(a) The department shall complete an annual early learning program implementation report on the early childhood education and assistance program and the working connections child care program.

(b) The early learning program implementation report must be posted annually on the department's web site and delivered to the appropriate committees of the legislature. The first report is due by December 31, 2015, and the final report is due by December 31, 2019.

(c) The early learning program implementation report must address the following:

(i) Progress on early childhood education and assistance program implementation as required pursuant to RCW 43.215.415, 43.215.425, and 43.215.455;

(ii) An examination of the regional distribution of new preschool programming by zip code;

(iii) An analysis of the impact of preschool expansion on low-income neighborhoods and communities;

(iv) Recommendations to address any identified barriers to access to quality preschool for children living in low-income neighborhoods;

(v) An analysis of any impact from quality strengthening efforts on the availability and quality of infant and toddler care;

(vi) An analysis of any impact of extended day early care and education opportunities directives;

(vii) An examination of any identified barriers for providers to offer extended day early care and education opportunities;

(viii) The number of contracted slots that use both early childhood education and assistance program funding and working connections child care program funding;

(ix) An analysis of the demand for full-day programming for early childhood education and assistance program providers required under RCW 43.215.415; and

(x) To the extent data is available, an analysis of the cultural diversity of early childhood education and assistance program providers and participants.

(6) The first annual report due under subsection (5) of this section also shall include a description of the early achievers program extension protocol required under RCW 43.215.100.

**NEW SECTION. Sec. 13.** A new section is added to chapter 43.215 RCW to read as follows:

**CONTRACTED CHILD CARE SLOTS AND VOUCHERS.**

(1) The department may employ a combination of vouchers and contracted slots for the subsidized child care programs in RCW 43.215.135. Child care vouchers preserve parental choice. Child care contracted slots promote access to continuous quality care for children, provide parents and caregivers stable child care that supports employment, and allow providers to have predictable

funding. Any contracted slots the department may create under this section must meet the requirements in subsections (2) through (7) of this section.

(2) Only child care providers who participate in the early achievers program and rate at a level 3, 4, or 5 are eligible to be awarded a contracted slot.

(3)(a) The department is required to use data to calculate a set number of targeted contracted slots. In calculating the number, the department must take into account a balance of family home and center child care programs and the overall geographic distribution of child care programs in the state and the distribution of slots between ages zero and five.

(b) The targeted contracted slots are reserved for programs meeting both of the following conditions:

(i) Programs in low-income neighborhoods; and

(ii) Programs that consist of at least fifty percent of children receiving subsidy pursuant to RCW 43.215.135.

(c) Until August 1, 2017, the department shall assure an even distribution of contracted slots for children birth to age five.

(4) The department shall award the remaining contracted slots via a competitive process and prioritize child care programs with at least one of the following characteristics:

(a) Programs located in a high-need geographic area;

(b) Programs partnering with elementary schools to offer transitional planning and support to children as they advance to kindergarten;

(c) Programs serving children involved in the child welfare system; or

(d) Programs serving children diagnosed with a special need.

(5)(a) The department shall adopt rules pertaining to the working connections child care program for both contracted slots and child care vouchers that outline the following:

(i) Allowable periods of child absences;

(ii) Required contact with parents or caregivers to discuss child absences and encourage regular program attendance; and

(iii) A de-enrollment procedure when allowable child absences are exceeded.

(b) Rules pertaining to child absences and de-enrollment procedures shall be adopted no later than July 31, 2016. The department shall adopt rules on child absences and attendance within the department's appropriations.

(6) The department shall pay a provider for each contracted slot, unless a contracted slot is not used for thirty days.

(7) The department shall include the number of contracted slots that use both early childhood education and assistance program funding and working connections child care program funding in the annual report to the legislature required under section 17 of this act.

**NEW SECTION. Sec. 14.** A new section is added to chapter 43.215 RCW to read as follows:

**INTEGRATION WITH LOCAL GOVERNMENT EFFORTS.**

(1) The foundation of quality in the early care and education system in Washington is the quality rating and improvement system entitled the early achievers program. In an effort to build on the existing quality framework, enhance access to quality care for children, and strengthen the entire early care and education systems in the state, it is important to integrate the efforts of state and local governments.

(2) Local governments are encouraged to collaborate with the department when establishing early learning programs for residents.

(3) Local governments may contribute funds to the department for the following purposes:

(a) Initial investments to build capacity and quality in local early care and education programming; and

(b) Reductions in copayments charged to parents or caregivers.

(4) Funds contributed to the department by local governments must be deposited in the early start account established in section 16 of this act.

**Sec. 15.** RCW 43.215.090 and 2012 c 229 s 589 are each amended to read as follows:

**EARLY LEARNING ADVISORY COUNCIL.**

(1) The early learning advisory council is established to advise the department on statewide early learning issues that would build a comprehensive system of quality early learning programs and services for Washington's children and families by assessing needs and the availability of services, aligning resources, developing plans for data collection and professional development of early childhood educators, and establishing key performance measures.

(2) The council shall work in conjunction with the department to develop a statewide early learning plan that guides the department in promoting alignment of private and public sector actions, objectives, and resources, and ensuring school readiness.

(3) The council shall include diverse, statewide representation from public, nonprofit, and for-profit entities. Its membership shall reflect regional, racial, and cultural diversity to adequately represent the needs of all children and families in the state.

(4) Councilmembers shall serve two-year terms. However, to stagger the terms of the council, the initial appointments for twelve of the members shall be for one year. Once the initial one-year to two-year terms expire, all subsequent terms shall be for two years, with the terms expiring on June 30th of the applicable year. The terms shall be staggered in such a way that, where possible, the terms of members representing a specific group do not expire simultaneously.

(5) The council shall consist of not more than twenty-three members, as follows:

(a) The governor shall appoint at least one representative from each of the following: The department, the office of financial management, the department of social and health services, the department of health, the student achievement council, and the state board for community and technical colleges;

(b) One representative from the office of the superintendent of public instruction, to be appointed by the superintendent of public instruction;

(c) The governor shall appoint seven leaders in early childhood education, with at least one representative with experience or expertise in one or more of the areas such as the following: The K-12 system, family day care providers, and child care centers with four of the seven governor's appointees made as follows:

(i) The head start state collaboration office director or the director's designee;

(ii) A representative of a head start, early head start, migrant/seasonal head start, or tribal head start program;

(iii) A representative of a local education agency; and

(iv) A representative of the state agency responsible for programs under section 619 or part C of the federal individuals with disabilities education act;

(d) Two members of the house of representatives, one from each caucus, and two members of the senate, one from each caucus, to be appointed by the speaker of the house of representatives and the president of the senate, respectively;

(e) Two parents, one of whom serves on the department's parent advisory group, to be appointed by the governor;

(f) One representative of the private-public partnership created in RCW 43.215.070, to be appointed by the partnership board;

(g) One representative designated by sovereign tribal governments; and

(h) One representative from the Washington federation of independent schools.

(6) The council shall be cochaired by one representative of a state agency and one nongovernmental member, to be elected by the council for two-year terms.

(7) The council shall appoint two members and stakeholders with expertise in early learning to sit on the technical working group created in section 2, chapter 234, Laws of 2010.

(8) Each member of the board shall be compensated in accordance with RCW 43.03.240 and reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060.

(9)(a) The council shall convene an early achievers review subcommittee to provide feedback and guidance on strategies to improve the quality of instruction and environment for early learning and provide input and recommendations on the implementation and refinement of the early achievers program. The review conducted by the subcommittee shall be a part of the annual progress report required in section 17 of this act. At a minimum the review shall address the following:

(i) Adequacy of data collection procedures;

(ii) Coaching and technical assistance standards;

(iii) Progress in reducing barriers to participation for low-income providers and providers from diverse cultural backgrounds, including a review of the early achievers program's rating tools, quality standard areas, and components, and how they are applied;

(iv) Strategies in response to data on the effectiveness of early achievers program standards in relation to providers and children from diverse cultural backgrounds;

(v) Status of the life circumstance exemption protocols; and

(vi) Analysis of early achievers program data trends.

(b) The subcommittee must include consideration of cultural linguistic responsiveness when analyzing the areas for review required by (a) of this subsection.

(c) The subcommittee shall include representatives from child care centers, family child care, the early childhood education and assistance program, contractors for early achievers program technical assistance and coaching, the organization responsible for conducting early achiever program ratings, and parents of children participating in early learning programs, including working connections child care and early childhood education and assistance programs. The subcommittee shall include representatives from diverse cultural and linguistic backgrounds.

(10) The department shall provide staff support to the council.

**NEW SECTION. Sec. 16.** A new section is added to chapter 43.215 RCW to read as follows:

**EARLY START ACCOUNT.**

The early start account is created in the state treasury. Revenues in the account shall consist of appropriations by the legislature and all other sources deposited into the account. Moneys in the account may only be used after appropriation. Expenditures from the account may be used only to improve the quality of early care and education programming. The department oversees the account.

**NEW SECTION. Sec. 17.** A new section is added to chapter 43.215 RCW to read as follows:

**ANNUAL PROGRESS REPORT.**

Beginning December 1, 2015, and each December 1st thereafter, the department, in collaboration with the early achievers review subcommittee of the early learning advisory council, shall submit, in compliance with RCW 43.01.036, a progress report to the governor and the legislature regarding providers' progress in the early achievers program. Each progress report must include the following elements:

(1) The number, and relative percentage, of providers by region who have enrolled in early achievers and who have:

(a) Completed the level 2 activities;

(b) Achieved the required rating level to remain eligible for state-funded support under the early childhood education and assistance program or a subsidy under the working connections child care program;

(c) Failed to achieve the required rating level and engaged in remedial activities before successfully achieving the required rating level;

(d) Failed to achieve the required rating level after completing remedial activities; or

(e) Received an extension from the department based on exceptional circumstances pursuant to RCW 43.215.100;

(2) A review of the services available to providers and children from diverse cultural backgrounds;

(3) An examination of the effectiveness of efforts to increase successful participation by providers serving children and families from diverse cultural and linguistic backgrounds and providers who serve children from low-income households;

(4) A description of the primary obstacles and challenges faced by providers who have not achieved the required rating level to remain eligible to receive:

(a) A subsidy under the working connections child care program; or

(b) State-funded support under the early childhood education and assistance program;

(5) A summary of the types of exceptional circumstances for which the department has granted an extension pursuant to RCW 43.215.100;

(6) To the extent data is available, an analysis of the distribution of early achievers program rated facilities in relation to child and provider demographics, including but not limited to race and ethnicity, home language, and geographical location;

(7) Recommendations for improving access for children from diverse cultural backgrounds to providers rated at a level 3 or higher in the early achievers program; and

(8) Recommendations for improving the early achievers program standards.

**Sec. 18.** RCW 43.215.010 and 2013 c 323 s 3 and 2013 c 130 s 1 are each reenacted and amended to read as follows:

**DEFINITIONS.**

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency" means any person, firm, partnership, association, corporation, or facility that provides child care and early learning services outside a child's own home and includes the following irrespective of whether there is compensation to the agency:

(a) "Child day care center" means an agency that regularly provides early childhood education and early learning services for a group of children for periods of less than twenty-four hours;

(b) "Early learning" includes but is not limited to programs and services for child care; state, federal, private, and nonprofit preschool; child care subsidies; child care resource and referral; parental education and support; and training and professional development for early learning professionals;

(c) "Family day care provider" means a child care provider who regularly provides early childhood education and early learning services for not more than twelve children in the provider's home in the family living quarters;

(d) "Nongovernmental private-public partnership" means an entity registered as a nonprofit corporation in Washington state with a primary focus on early learning, school readiness, and parental support, and an ability to raise a minimum of five million dollars in contributions;

(e) "Service provider" means the entity that operates a community facility.

(2) "Agency" does not include the following:

(a) Persons related to the child in the following ways:

- (i) Any blood relative, including those of half-blood, and including first cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;
- (ii) Stepfather, stepmother, stepbrother, and stepsister;
- (iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law; or
- (iv) Spouses of any persons named in (a)(i), (ii), or (iii) of this subsection, even after the marriage is terminated;
- (b) Persons who are legal guardians of the child;
- (c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the person providing care for periods of less than twenty-four hours does not conduct such activity on an ongoing, regularly scheduled basis for the purpose of engaging in business, which includes, but is not limited to, advertising such care;
- (d) Parents on a mutually cooperative basis exchange care of one another's children;
- (e) Nursery schools that are engaged primarily in early childhood education with preschool children and in which no child is enrolled on a regular basis for more than four hours per day;
- (f) Schools, including boarding schools, that are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school(-)age children, and do not accept custody of children;
- (g) Seasonal camps of three months' or less duration engaged primarily in recreational or educational activities;
- (h) Facilities providing child care for periods of less than twenty-four hours when a parent or legal guardian of the child remains on the premises of the facility for the purpose of participating in:
  - (i) Activities other than employment; or
  - (ii) Employment of up to two hours per day when the facility is operated by a nonprofit entity that also operates a licensed child care program at the same facility in another location or at another facility;
- (i) Any entity that provides recreational or educational programming for school((-)age((4)) children only and the entity meets all of the following requirements:
  - (i) The entity utilizes a drop-in model for programming, where children are able to attend during any or all program hours without a formal reservation;
  - (ii) The entity does not assume responsibility in lieu of the parent, unless for coordinated transportation;
  - (iii) The entity is a local affiliate of a national nonprofit; and
  - (iv) The entity is in compliance with all safety and quality standards set by the associated national agency;
- (j) A program operated by any unit of local, state, or federal government or an agency, located within the boundaries of a federally recognized Indian reservation, licensed by the Indian tribe;
- (k) A program located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter;
- (l) A program that offers early learning and support services, such as parent education, and does not provide child care services on a regular basis.
- (3) "Applicant" means a person who requests or seeks employment in an agency.
- (4) "Conviction information" means criminal history record information relating to an incident which has led to a conviction or other disposition adverse to the applicant.
- (5) "Department" means the department of early learning.
- (6) "Director" means the director of the department.

(7) "Early achievers" means a program that improves the quality of early learning programs and supports and rewards providers for their participation.

(8) "Early childhood education and assistance program contractor" means an organization that provides early childhood education and assistance program services under a signed contract with the department.

(9) "Early childhood education and assistance program provider" means an organization that provides site level, direct, and high quality early childhood education and assistance program services under the direction of an early childhood education and assistance program contractor.

(10) "Early start" means an integrated high quality continuum of early learning programs for children birth-to-five years of age. Components of early start include, but are not limited to, the following:

(a) Home visiting and parent education and support programs;

(b) The early achievers program described in RCW 43.215.100;

(c) Integrated full-day and part-day high quality early learning programs; and

(d) High quality preschool for children whose family income is at or below one hundred ten percent of the federal poverty level.

~~((9))~~ (11) "Education data center" means the education data center established in RCW 43.41.400, commonly referred to as the education research and data center.

(12) "Employer" means a person or business that engages the services of one or more people, especially for wages or salary to work in an agency.

~~((10))~~ (13) "Enforcement action" means denial, suspension, revocation, modification, or nonrenewal of a license pursuant to RCW 43.215.300(1) or assessment of civil monetary penalties pursuant to RCW 43.215.300(3).

~~((11))~~ (14) "Extended day program" means an early childhood education and assistance program that offers early learning education for at least ten hours per day, a minimum of two thousand hours per year, at least four days per week, and operates year round.

(15) "Full day program" means an early childhood education and assistance program that offers early learning education for a minimum of one thousand hours per year.

(16) "Low-income child care provider" means a person who administers a child care program that consists of at least eighty percent of children receiving working connections child care subsidy.

(17) "Low-income neighborhood" means a district or community where more than twenty percent of households are below the federal poverty level.

(18) "Negative action" means a court order, court judgment, or an adverse action taken by an agency, in any state, federal, tribal, or foreign jurisdiction, which results in a finding against the applicant reasonably related to the individual's character, suitability, and competence to care for or have unsupervised access to children in child care. This may include, but is not limited to:

(a) A decision issued by an administrative law judge;

(b) A final determination, decision, or finding made by an agency following an investigation;

(c) An adverse agency action, including termination, revocation, or denial of a license or certification, or if pending adverse agency action, the voluntary surrender of a license, certification, or contract in lieu of the adverse action;

(d) A revocation, denial, or restriction placed on any professional license; or

(e) A final decision of a disciplinary board.

~~((12))~~ (19) "Nonconviction information" means arrest, founded allegations of child abuse, or neglect pursuant to chapter 26.44 RCW, or other negative action adverse to the applicant.

~~((13))~~ (20) "Nonschool age child" means a child who is age six years or younger and who is not enrolled in a public or private school.

(21) "Part day program" means an early childhood education and assistance program that offers early learning education for at least two and one-half hours per class session, at least three hundred twenty hours per year, for a minimum of thirty weeks per year.

(22) "Private school" means a private school approved by the state under chapter 28A.195 RCW.

(23) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.

~~((14))~~ (24) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

~~((15))~~ (25) "School age child" means a child who is between the ages of five years and twelve years and is attending a public or private school or is receiving home-based instruction under chapter 28A.200 RCW.

(26) "Washington state preschool program" means an education program for children three-to-five years of age who have not yet entered kindergarten, such as the early childhood education and assistance program.

**NEW SECTION. Sec. 19.** A new section is added to chapter 43.215 RCW to read as follows:

**JOINT SELECT COMMITTEE ON THE EARLY ACHIEVERS PROGRAM.**

(1)(a) A joint select committee on the early achievers program is established with members as provided in this subsection.

(i) Chair and ranking minority member of the house of representatives appropriations committee, or his or her designee;

(ii) Chair and ranking minority member of the senate ways and means committee, or his or her designee;

(iii) Chair and ranking minority member of the house of representatives early learning and human services committee, or his or her designee; and

(iv) Chair and ranking minority member of the senate early learning and K-12 education committee, or his or her designee.

(b) The committee shall choose its chair or co-chairs from among its legislative membership. The chair of the house of representatives appropriations committee, or his or her designee, and the chair of the senate ways and means committee, or his or her designee, shall convene the initial meeting of the committee.

(2) Between July 1, 2017, and December 1, 2017, the early achievers joint select committee shall review the demand and availability of licensed or certified child care family homes and centers, approved early childhood education and assistance programs, head start programs, and family, friend, and neighbor caregivers by geographic region, including rural and low-income areas. This review shall specifically look at the following:

(a) The geographic distribution of these child care programs by type of program, programs that accept state subsidy, enrollment in the early achievers program, and early achievers rating levels; and

(b) The demand and availability of these child care programs for major ethnic populations.

(3) By December 1, 2017, the early achievers joint select committee shall make recommendations to the legislature on the following:

(a) The sufficiency of funding provided for the early achievers program;

(b) The need for targeted funding for specific geographic regions or major ethnic populations; and

(c) Whether to modify the deadlines established in RCW 43.215.135 for purposes of the early achievers program mandate established in RCW 43.215.100.

(4) Staff support for the committee must be provided by the senate committee services and the house of representatives office of program research.

(5) Legislative members of the committee must be reimbursed for travel expenses in accordance with RCW 44.04.120.

(6) The expenses of the committee must be paid jointly by the senate and the house of representatives. Committee expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.

(7) The committee shall report its findings and recommendations to the appropriate committees of the legislature by December 1, 2017.

(8) This section expires December 1, 2018.  
**NEW SECTION. Sec. 20. REPEALER.** 2013 2nd sp.s. c 16 s 2 (uncodified) is repealed.

**NEW SECTION. Sec. 21.** A new section is added to chapter 43.215 RCW to read as follows:

**SHORT TITLE.**

Chapter . . . , Laws of 2015 (this act) may be known and cited as the early start act.

**NEW SECTION. Sec. 22. EFFECTIVE DATE.** Section 7 of this act takes effect January 1, 2016.

**NEW SECTION. Sec. 23. NULL AND VOID.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2015, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Kagi, Chair; Walkinshaw, Vice Chair; Walsh, Ranking Minority Member; Dent; Hawkins; Kilduff; Ortiz-Self; Sawyer and Senn.

MINORITY recommendation: Do not pass. Signed by Representatives Scott, Assistant Ranking Minority Member and McCaslin.

Referred to Committee on Appropriations.

March 26, 2015  
**ESSB 5498** Prime Sponsor, Committee on Law & Justice; Revising the uniform interstate family support act. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Representatives Jenkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Goodman; Hansen; Kirby; Klippert; Muri; Orwall; Stokesbary and Walkinshaw.

MINORITY recommendation: Do not pass. Signed by Representatives Shea, Assistant Ranking Minority Member and Haler.

Passed to Committee on Rules for second reading.

March 26, 2015  
**ESSB 5557** Prime Sponsor, Committee on Health Care; Addressing services provided by pharmacists. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 48.43 RCW to read as follows:

For health plans issued or renewed on or after January 1, 2017, benefits shall not be denied for any health care service performed by a pharmacist licensed under chapter 18.64 RCW if (1) the service performed was within the lawful scope of such person's license; (2) the plan would have provided benefits if the service had been performed by a physician licensed under chapter 18.71 or 18.57 RCW, an advanced registered nurse practitioner licensed under chapter 18.79 RCW, or a physician's assistant licensed under chapter 18.71A or 18.57A RCW; and (3) the pharmacist is included in the plan's network of participating providers. The participation of pharmacies in the plan network's drug benefit does not satisfy the requirement that plans include pharmacists in their networks of participating medical providers. This section does not supersede the requirements of RCW 48.43.045.

**Sec. 2.** RCW 48.43.045 and 2007 c 253 s 12 are each amended to read as follows:

(1) Every health plan delivered, issued for delivery, or renewed by a health carrier on and after January 1, 1996, shall:

(a) Permit every category of health care provider to provide health services or care (~~for conditions~~) included in the (~~basic health plan services~~) essential health benefits benchmark plan established by the commissioner consistent with RCW 48.43.715, to the extent that:

(i) The provision of such health services or care is within the health care providers' permitted scope of practice; (~~and~~)

(ii) The providers agree to abide by standards related to:

(A) Provision, utilization review, and cost containment of health services;

(B) Management and administrative procedures; and

(C) Provision of cost-effective and clinically efficacious health services; and

(iii) The plan covers such services or care in the essential health benefits benchmark plan. The reference to the essential health benefits does not create a mandate to cover a service that is otherwise not a covered benefit.

(b) Annually report the names and addresses of all officers, directors, or trustees of the health carrier during the preceding year, and the amount of wages, expense reimbursements, or other payments to such individuals, unless substantially similar information is filed with the commissioner or the national association of insurance commissioners. This requirement does not apply to a foreign or alien insurer regulated under chapter 48.20 or 48.21 RCW that files a supplemental compensation exhibit in its annual statement as required by law.

(2) The requirements of subsection (1)(a) of this section do not apply to a licensed health care profession regulated under Title 18 RCW when the licensing statute for the profession states that such requirements do not apply."

Correct the title.

Signed by Representatives Cody, Chair; Riccelli, Vice Chair; Schmick, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Clibborn; Jinkins; Johnson; Moeller; Robinson; Rodne; Short; Tharinger and Van De Wege.

MINORITY recommendation: Do not pass. Signed by Representative Caldier.

Passed to Committee on Rules for second reading.

March 26, 2015

SSB 5591

Prime Sponsor, Committee on Government Operations & Security: Allowing emergency medical services to develop community assistance referral and education services programs. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chair; Riccelli, Vice Chair; Clibborn; Jinkins; Johnson; Moeller; Robinson; Rodne; Tharinger and Van De Wege.

MINORITY recommendation: Do not pass. Signed by Representatives Schmick, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Caldier and Short.

Passed to Committee on Rules for second reading.

March 26, 2015

SB 5606

Prime Sponsor, Senator Jayapal: Modifying provisions related to licensing and scope of practice for dental professionals. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chair; Riccelli, Vice Chair; Schmick, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Caldier; Clibborn; Jinkins; Johnson; Moeller; Robinson; Rodne; Short; Tharinger and Van De Wege.

Passed to Committee on Rules for second reading.

March 26, 2015

SB 5647

Prime Sponsor, Senator Conway: Allowing counties to create guardianship courthouse facilitator programs. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 11.88 RCW to read as follows:

A county may create a guardianship courthouse facilitator program to provide basic services to pro se litigants in guardianship cases. The legislative authority of any county may impose user fees or may impose a surcharge of up to twenty dollars, or both, on superior court cases filed under chapters 11.88, 11.90, 11.92, and 73.36 RCW to pay for the expenses of the guardianship courthouse facilitator program. Fees collected under this section shall be collected and deposited in the same manner as other county funds are collected and deposited, and shall be maintained in a separate guardianship courthouse facilitator account to be used as provided in this section."

Correct the title.

Signed by Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Goodman; Haler; Hansen; Kirby; Klippert; Muri; Orwall; Stokesbary and Walkinshaw.

MINORITY recommendation: Do not pass. Signed by Representative Shea, Assistant Ranking Minority Member.

Passed to Committee on Rules for second reading.

March 26, 2015  
SB 5658 Prime Sponsor, Senator Dansel: Concerning the role of parties in cases related to certain notices and records. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended.

On page 3, beginning on line 21, strike all of sections 2 and 3. Renumber the remaining sections consecutively and correct internal references accordingly. Correct the title.

Signed by Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Goodman; Haler; Hansen; Kirby; Klippert; Muri; Orwall; Stokesbary and Walkinshaw.

Passed to Committee on Rules for second reading.

March 26, 2015  
SB 5662 Prime Sponsor, Senator Kohl-Welles: Authorizing a licensed domestic brewery or microbrewery to provide promotional items to a nonprofit charitable corporation or association. Reported by Committee on Commerce & Gaming

MAJORITY recommendation: Do pass. Signed by Representatives Hurst, Chair; Wylie, Vice Chair; Condotta, Ranking Minority Member; Holy, Assistant Ranking Minority Member; Blake; Kirby; Scott; Van De Wege and Vick.

Passed to Committee on Rules for second reading.

March 25, 2015  
SB 5761 Prime Sponsor, Senator Pearson: Providing for property tax exemption for the value of new construction of industrial/manufacturing facilities in targeted urban areas. Reported by Committee on Technology & Economic Development

MAJORITY recommendation: Do pass as amended.

On page 2, line 27, after "(3)" insert "'Former manufacturing facility" means an improvement used primarily for manufacturing activities at any time, provided that the property was zoned for manufacturing activities at the time of use and the use occurred more than sixty months prior to the submission of an application under this chapter.

(4)"

Renumber the remaining subsections consecutively and correct any internal references accordingly.

On page 3, line 4, after "undeveloped" insert "or underutilized"

On page 3, line 9, after "Undeveloped" strike "or underutilized"

On page 3, after line 12, insert the following:

"(10) "Underutilized" means that the property or portions of the property targeted for new or expanded industrial or manufacturing uses:

(a) Includes a former manufacturing facility; or

(b) Is designated, in whole or in part, as a brownfield under RCW 70.105D.020; or

(c) Is improved by new construction of industrial/manufacturing facilities qualifying under this chapter such that the improvement increases the assessed property value,

including the land and improvements, by fifty percent or more than the assessed property value before the new construction."

Signed by Representatives Morris, Chair; Tarleton, Vice Chair; Smith, Ranking Minority Member; DeBolt, Assistant Ranking Minority Member; Harmsworth; Hudgins; Magendanz; Nealey; Ryu; Santos and Wylie.

Referred to Committee on Finance.

March 26, 2015  
SB 5779 Prime Sponsor, Senator Parlette: Reducing penalties applied to regional support networks and behavioral health organizations. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 71.24.310 and 2013 2nd sp.s. c 4 s 994 are each amended to read as follows:

The legislature finds that administration of chapter 71.05 RCW and this chapter can be most efficiently and effectively implemented as part of the regional support network defined in RCW 71.24.025. For this reason, the legislature intends that the department and the regional support networks shall work together to implement chapter 71.05 RCW as follows:

(1) By June 1, 2006, regional support networks shall recommend to the department the number of state hospital beds that should be allocated for use by each regional support network. The statewide total allocation shall not exceed the number of state hospital beds offering long-term inpatient care, as defined in this chapter, for which funding is provided in the biennial appropriations act.

(2) If there is consensus among the regional support networks regarding the number of state hospital beds that should be allocated for use by each regional support network, the department shall contract with each regional support network accordingly.

(3) If there is not consensus among the regional support networks regarding the number of beds that should be allocated for use by each regional support network, the department shall establish by emergency rule the number of state hospital beds that are available for use by each regional support network. The emergency rule shall be effective September 1, 2006. The primary factor used in the allocation shall be the estimated number of adults with acute and chronic mental illness in each regional support network area, based upon population-adjusted incidence and utilization.

(4) The allocation formula shall be updated at least every three years to reflect demographic changes, and new evidence regarding the incidence of acute and chronic mental illness and the need for long-term inpatient care. In the updates, the statewide total allocation shall include (a) all state hospital beds offering long-term inpatient care for which funding is provided in the biennial appropriations act; plus (b) the estimated equivalent number of beds or comparable diversion services contracted in accordance with subsection (5) of this section.

(5) The department is encouraged to enter performance-based contracts with regional support networks to provide some or all of the regional support network's allocated long-term inpatient treatment capacity in the community, rather than in the state hospital. The performance contracts shall specify the number of patient days of care available for use by the regional support network in the state hospital.



(6) If a regional support network uses more state hospital patient days of care than it has been allocated under subsection (3) or (4) of this section, or than it has contracted to use under subsection (5) of this section, whichever is less, it shall reimburse the department for that care, except during the period of July 1, 2012, through December 31, 2013, where reimbursements may be temporarily altered per section 204, chapter 4, Laws of 2013 2nd sp. sess. The reimbursement rate per day shall be one-half of the hospital's total annual budget for long-term inpatient care, divided by the total patient days of care assumed in development of that budget.

(7) ~~((One half of))~~ Any reimbursements received pursuant to subsection (6) of this section shall be ~~((used to support the cost of operating the state hospital and, during the 2007-2009 fiscal biennium, implementing new services that will enable a regional support network to reduce its utilization of the state hospital. The department shall distribute the remaining half of such reimbursements))~~ distributed among regional support networks that have used less than their allocated or contracted patient days of care at that hospital, proportional to the number of patient days of care not used.

**Sec. 2.** 2014 c 225 s 1 (uncodified) is amended to read as follows:

(1)(a) Beginning April 1, 2014, the legislature shall convene a task force to examine reform of the adult behavioral health system, with voting members as provided in this subsection.

(i) The president of the senate shall appoint one member and one alternate member from each of the two largest caucuses of the senate.

(ii) The speaker of the house of representatives shall appoint one member and one alternate member from each of the two largest caucuses in the house of representatives.

(iii) The governor shall appoint three members consisting of the secretary of the department of social and health services or the secretary's designee, the director of the health care authority or the director's designee, and a representative of the governor.

(iv) The Washington state association of counties shall appoint three members.

(v) The governor shall request participation by a representative of tribal governments.

(b) The task force shall choose two cochairs from among its legislative members.

(c) The task force shall adopt a bottom-up approach and welcome input and participation from all stakeholders interested in the improvement of the adult behavioral health system. To that end, the task force must invite participation from, at a minimum, the following: The department of commerce, the department of corrections, the office of financial management, behavioral health service recipients and their families; local government; representatives of regional support networks; representatives of county coordinators; law enforcement; city and county jails; tribal representatives; behavioral health service providers; housing providers; labor representatives; counties with state hospitals; mental health advocates; chemical dependency advocates; public defenders with involuntary mental health commitment or mental health court experience; chemical dependency experts working with drug courts; medicaid managed care plan and associated delivery system representatives; long-term care service providers; the Washington state hospital association; and individuals with expertise in evidence-based and research-based behavioral health service practices. Leadership of subcommittees formed by the task force may be drawn from this body of invited participants.

(2) The task force shall undertake a systemwide review of the adult behavioral health system and make recommendations for reform concerning, but not limited to, the following:

(a) The means by which services are purchased and delivered for adults with mental illness and chemical dependency disorders through the department of social and health services and the health care authority, including:

(i) Guidance for the creation of common regional service areas for purchasing behavioral health services and medical care services by the department of social and health services and the health care authority, taking into consideration any proposal submitted by the Washington state association of counties under RCW 43.20A.893;

(ii) Identification of key issues which must be addressed by the department of social and health services to accomplish the integration of chemical dependency purchasing primarily with managed care contracts by April 1, 2016, under RCW 71.24.380, including review of the results of any available actuarial study to establish provider rates;

(iii) Strategies for moving towards full integration of medical and behavioral health services by January 1, 2020, and identification of key issues that must be addressed by the health care authority and the department of social and health services in furtherance of this goal;

(iv) By August 1, 2014, a review of performance measures and outcomes developed pursuant to RCW 43.20A.895 and chapter 70.320 RCW;

(v) Review criteria developed by the department of social and health services and the health care authority concerning submission of detailed plans and requests for early adoption of fully integrated purchasing and incentives under RCW 71.24.380;

(vi) Whether a statewide behavioral health ombuds office should be created;

(vii) Whether the state chemical dependency program should be mandated to provide twenty-four hour detoxification services, medication-assisted outpatient treatment, or contracts for case management and residential treatment services for pregnant and parenting women;

(viii) Review legal, clinical, and technological obstacles to sharing relevant health care information related to mental health, chemical dependency, and physical health across practice settings; ~~((and))~~

(ix) Review the extent and causes of variations in commitment rates in different jurisdictions across the state; and

(x) Identify options to promote the most appropriate use of long-term inpatient treatment capacity at the state hospitals, including options to promote the effective use of state hospitals and encourage appropriate cooperation among behavioral health organizations;

(b) Availability of effective means to promote recovery and prevent harm associated with mental illness and chemical dependency;

(c) Availability of crisis services, including boarding of mental health patients outside of regularly certified treatment beds;

(d) Best practices for cross-system collaboration between behavioral health treatment providers, medical care providers, long-term care service providers, entities providing health home services to high-risk medicaid clients, law enforcement, and criminal justice agencies;

(e) Public safety practices involving persons with mental illness and chemical dependency with forensic involvement.

(3) Staff support for the task force must be provided by the senate committee services and the house of representatives office of program research.

(4) Legislative members of the task force must be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(5) The expenses of the task force must be paid jointly by the senate and house of representatives. Task force expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.

(6) The task force shall report initial findings and recommendations to the governor and the appropriate committees of the legislature in a preliminary report by December 15, 2014, and a final report by December 15, 2015. Recommendations under subsection (2)(a)(i) of this section must be submitted to the governor by September 1, 2014.

(7) This section expires July 1, 2016.

**NEW SECTION. Sec. 3.** Section 1 of this act expires April 1, 2016."

Correct the title.

Signed by Representatives Cody, Chair; Riccelli, Vice Chair; Schmick, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Caldier; Clibborn; Jenkins; Johnson; Moeller; Robinson; Rodne; Short; Tharinger and Van De Wege.

Referred to Committee on Appropriations.

March 26, 2015

**ESSB 5857** Prime Sponsor, Committee on Ways & Means: Addressing registration and regulation of pharmacy benefit managers. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**Sec. 1.** RCW 19.340.030 and 2014 c 213 s 2 are each amended to read as follows:

(1) To conduct business in this state, a pharmacy benefit manager must register with the ~~((department of revenue's business licensing service))~~ office of the insurance commissioner and annually renew the registration.

(2) To register under this section, a pharmacy benefit manager must:

(a) Submit an application requiring the following information:

(i) The identity of the pharmacy benefit manager;

(ii) The name, business address, phone number, and contact person for the pharmacy benefit manager; and

(iii) Where applicable, the federal tax employer identification number for the entity; and

(b) Pay a registration fee ~~((of two hundred dollars))~~ established in rule by the commissioner. The registration fee must be set to allow the registration and oversight activities to be self-supporting.

(3) To renew a registration under this section, a pharmacy benefit manager must pay a renewal fee ~~((of two hundred dollars))~~ established in rule by the commissioner. The renewal fee must be set to allow the renewal and oversight activities to be self-supporting.

(4) All receipts from registrations and renewals collected by the ~~((department))~~ commissioner must be deposited into the ~~((business license account created in RCW 19.02.210))~~ insurance commissioner's regulatory account created in RCW 48.02.190.

**NEW SECTION. Sec. 2.** A new section is added to chapter 19.340 RCW to read as follows:

(1) The commissioner shall have enforcement authority over this chapter and shall have authority to render a binding decision in any dispute between a pharmacy benefit manager, or third-party

administrator of prescription drug benefits, and a pharmacy arising out of an appeal regarding drug pricing and reimbursement.

(2) Any person, corporation, or third-party administrator of prescription drug benefits, pharmacy benefit manager, or business entity which violates any provision of this chapter shall be subject to a civil penalty in the amount of one thousand dollars for each act in violation of this chapter or, if the violation was knowing and willful, a civil penalty of five thousand dollars for each violation of this chapter.

**Sec. 3.** RCW 19.340.010 and 2014 c 213 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Claim" means a request from a pharmacy or pharmacist to be reimbursed for the cost of filling or refilling a prescription for a drug or for providing a medical supply or service.

(2) "Commissioner" means the insurance commissioner established in chapter 48.02 RCW.

(3) "Insurer" has the same meaning as in RCW 48.01.050.

~~((3))~~ (4) "Pharmacist" has the same meaning as in RCW 18.64.011.

~~((4))~~ (5) "Pharmacy" has the same meaning as in RCW 18.64.011.

~~((5))~~ (6)(a) "Pharmacy benefit manager" means a person that contracts with pharmacies on behalf of an insurer, a third-party payor, or the prescription drug purchasing consortium established under RCW 70.14.060 to:

(i) Process claims for prescription drugs or medical supplies or provide retail network management for pharmacies or pharmacists;

(ii) Pay pharmacies or pharmacists for prescription drugs or medical supplies; or

(iii) Negotiate rebates with manufacturers for drugs paid for or procured as described in this subsection.

(b) "Pharmacy benefit manager" does not include a health care service contractor as defined in RCW 48.44.010.

~~((6))~~ (7) "Third-party payor" means a person licensed under RCW 48.39.005.

**Sec. 4.** RCW 19.340.100 and 2014 c 213 s 10 are each amended to read as follows:

(1) As used in this section:

(a) "Denial" of an appeal includes failing to reimburse a pharmacy or pharmacist and reimbursing a pharmacy or pharmacist for less than the amount that the pharmacy or pharmacist paid to the supplier of the drug.

(b) "List" means the list of drugs for which maximum allowable costs have been established.

~~((b))~~ (c) "Maximum allowable cost" means the maximum amount that a pharmacy benefit manager will reimburse a pharmacy for the cost of a drug.

~~((c))~~ (d) "Multiple source drug" means a therapeutically equivalent drug that is available from at least two manufacturers.

~~((d))~~ (e) "Network pharmacy" means a retail drug outlet licensed as a pharmacy under RCW 18.64.043 that contracts with a pharmacy benefit manager.

~~((e))~~ (f) "Therapeutically equivalent" has the same meaning as in RCW 69.41.110.

(2) A pharmacy benefit manager:

(a) May not place a drug on a list unless ~~((are is [there are]))~~ there are at least two therapeutically equivalent multiple source drugs, or at least one generic drug available from only one manufacturer, generally available for purchase by network pharmacies from national or regional wholesalers;

(b) Shall ensure that all drugs on a list are ~~((generally))~~ readily available for purchase by community retail pharmacies in

this state from national or regional wholesalers that serve community retail pharmacies in Washington;

(c) Shall ensure that all drugs on a list are not obsolete;

(d) Shall make available to each network pharmacy at the beginning of the term of a contract, and upon renewal of a contract, the sources utilized to determine the maximum allowable cost pricing of the pharmacy benefit manager;

(e) Shall make a list available to a network pharmacy upon request in a format that is readily accessible to and usable by the network pharmacy;

(f) Shall update each list maintained by the pharmacy benefit manager every seven business days and make the updated lists, including all changes in the price of drugs, available to network pharmacies in a readily accessible and usable format;

(g) Shall ensure that dispensing fees are not included in the calculation of maximum allowable cost.

(3) A pharmacy benefit manager must establish a process by which a network pharmacy may appeal its reimbursement for a drug subject to maximum allowable cost pricing. A network pharmacy may appeal a maximum allowable cost if the reimbursement for the drug is less than the net amount that the network pharmacy paid to the supplier of the drug. The pharmacy benefit manager shall reimburse the pharmacy or pharmacist the amount that the pharmacy or pharmacist paid to the supplier of the drug if the pharmacy or pharmacist can demonstrate that it is unable to purchase a therapeutically equivalent interchangeable product from its supplier at the pharmacy benefit manager's list price. An appeal requested under this section must be completed within thirty calendar days of the pharmacy making the claim for which an appeal has been requested.

(4) A pharmacy benefit manager must provide as part of the appeals process established under subsection (3) of this section:

(a) A telephone number at which a network pharmacy may contact the pharmacy benefit manager and speak with an individual who is responsible for processing appeals;

(b) A final response to an appeal of a maximum allowable cost within seven business days; and

(c) If the appeal is denied, the reason for the denial and the national drug code of a drug that may be purchased by similarly situated pharmacies at a price that is equal to or less than the maximum allowable cost.

(5)(a) If an appeal is upheld under this section, the pharmacy benefit manager shall make an adjustment on a date no later than one day after the date of determination. The pharmacy benefit manager shall make the adjustment effective for all similarly situated pharmacies in this state that are within the network.

(b) If the request for an adjustment has come from a critical access pharmacy, as defined by the state health care authority by rule for purposes related to the prescription drug purchasing consortium established under RCW 70.14.060, the adjustment approved under (a) of this subsection shall apply only to critical access pharmacies.

(6) If a pharmacy appeal to the pharmacy benefit manager is denied, the pharmacy or pharmacist may dispute the denial and request review by the commissioner.

(a) All relevant information from the parties may be presented to the commissioner, and the commissioner may enter an order directing the pharmacy benefit manager to make an adjustment, deny the pharmacy appeal, or take other actions deemed fair and equitable.

(b) Upon resolution of the dispute, the commissioner shall provide a copy of the decision to both parties within seven calendar days.

(7) This section does not apply to the state medical assistance program.

**NEW SECTION. Sec. 5.** A new section is added to chapter 48.02 RCW to read as follows:

(1) The commissioner shall accept registration of pharmacy benefit managers as established in RCW 19.340.030 and receipts shall be deposited in the insurance commissioner's regulatory account.

(2) The commissioner shall have enforcement authority over chapter 19.340 RCW consistent with requirements established in section 2 of this act.

(3) The commissioner may write rules to implement chapter 19.340 RCW and to establish registration and renewal fees that ensure the registration, renewal, and oversight activities are self-supporting.

**NEW SECTION. Sec. 6.** The joint select committee on health care oversight must convene a stakeholder work group comprised of participants in the prescription drug delivery chain, including pharmacy benefit managers, drug manufacturers, wholesalers, pharmacy service administrative organizations, pharmacies, health plans, and other payors. The work group assignments may include, but are not limited to the following:

(1) Review the entire drug supply chain including plan and pharmacy benefit manager reimbursements to independent pharmacies, wholesaler or pharmacy service administrative organization price to independent pharmacies, and drug manufacturer prices to independent pharmacies;

(2) Discuss suggestions that recognize the unique nature of small retail pharmacies and possible options that support a viable business model that do not increase the cost of pharmacy products;

(3) Review the availability of all drugs on the list and list prices for community retail pharmacies;

(4) Review the phone contacts and standards for response times and availability;

(5) Review the pharmacy acquisition cost from national or regional wholesalers that serve community retail pharmacies in Washington, and consider when or whether to make an adjustment and under what standards. The review may assess the timing of pharmacy purchases of products and the relative risk of list price changes related to the timing of dispensing the products; and

(6) The work group must provide periodic updates to the joint select committee on health care oversight.

**NEW SECTION. Sec. 7.** Section 1 of this act takes effect January 1, 2016."

Correct the title.

Signed by Representatives Cody, Chair; Riccelli, Vice Chair; Schmick, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Caldier; Clibborn; Jinkins; Johnson; Moeller; Robinson; Short; Tharinger and Van De Wege.

MINORITY recommendation: Without recommendation. Signed by Representative Rodne.

Referred to Committee on Appropriations.

March 26, 2015

**SSB 5870** Prime Sponsor, Committee on Health Care: Protecting youth from aversive mental health therapies. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature intends to regulate the professional conduct of licensed health care providers with respect to performing aversive mental health therapies, including conversion therapy, on patients under the age of eighteen. This includes, but is not limited to, aversive efforts that seek to change an individual's sexual orientation, that seek to stop an individual from using tobacco products, or that seek to stop an individual from using alcohol, prescription drugs, or other controlled substances.

**Sec. 2.** RCW 18.130.020 and 2008 c 134 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Aversive mental health therapy" means aversion therapy and conversion therapy.

(2) "Aversion therapy" means a practice, treatment, or therapy involving electrical shock, extreme temperatures, prolonged isolation, chemically induced nausea or vomiting, assault as defined in chapter 9A.36 RCW, or other procedures intending to cause pain, discomfort, or unpleasant sensations to the client or patient. "Aversion therapy" does not include practices, treatments, or therapies that are within the standards of practice for license holders under this chapter as provided in department rules.

(3) "Board" means any of those boards specified in RCW 18.130.040.

~~((2))~~ (4) "Clinical expertise" means the proficiency or judgment that a license holder in a particular profession acquires through clinical experience or clinical practice and that is not possessed by a lay person.

~~((3))~~ (5) "Commission" means any of the commissions specified in RCW 18.130.040.

~~((4))~~ (6) "Conversion therapy" means any practices or treatments that seek to change an individual's sexual orientation or gender identity, including efforts to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same gender. Conversion therapy shall not include counseling that provides assistance to a person undergoing gender transition, or counseling that provides acceptance, support, and understanding of a person or facilitates a person's coping, social support, and identity exploration and development, including sexual orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices, as long as such counseling does not seek to change sexual orientation or gender identity.

(7) "Department" means the department of health.

~~((5))~~ (8) "Disciplinary action" means sanctions identified in RCW 18.130.160.

~~((6))~~ (9) "Disciplining authority" means the agency, board, or commission having the authority to take disciplinary action against a holder of, or applicant for, a professional or business license upon a finding of a violation of this chapter or a chapter specified under RCW 18.130.040.

~~((7))~~ (10) "Health agency" means city and county health departments and the department of health.

~~((8))~~ (11) "License," "licensing," and "licensure" shall be deemed equivalent to the terms "license," "licensing," "licensure," "certificate," "certification," and "registration" as those terms are defined in RCW 18.120.020.

~~((9))~~ (12) "Practice review" means an investigative audit of records related to the complaint, without prior identification of specific patient or consumer names, or an assessment of the conditions, circumstances, and methods of the professional's practice related to the complaint, to determine whether unprofessional conduct may have been committed.

~~((10))~~ (13)(a) "Prohibited aversive mental health therapy" means any aversive mental health therapy performed on a patient under the age of eighteen.

(14) "Secretary" means the secretary of health or the secretary's designee.

~~((11))~~ (15) "Standards of practice" means the care, skill, and learning associated with the practice of a profession.

~~((12))~~ (16) "Unlicensed practice" means:

(a) Practicing a profession or operating a business identified in RCW 18.130.040 without holding a valid, unexpired, unrevoked, and unsuspended license to do so; or

(b) Representing to a consumer, through offerings, advertisements, or use of a professional title or designation, that the individual is qualified to practice a profession or operate a business identified in RCW 18.130.040, without holding a valid, unexpired, unrevoked, and unsuspended license to do so.

**Sec. 3.** RCW 18.130.180 and 2010 c 9 s 5 are each amended to read as follows:

The following conduct, acts, or conditions constitute unprofessional conduct for any license holder under the jurisdiction of this chapter:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(2) Misrepresentation or concealment of a material fact in obtaining a license or in reinstatement thereof;

(3) All advertising which is false, fraudulent, or misleading;

(4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. The use of a nontraditional treatment by itself shall not constitute unprofessional conduct, provided that it does not result in injury to a patient or create an unreasonable risk that a patient may be harmed;

(5) Suspension, revocation, or restriction of the individual's license to practice any health care profession by competent authority in any state, federal, or foreign jurisdiction, a certified copy of the order, stipulation, or agreement being conclusive evidence of the revocation, suspension, or restriction;

(6) Except when authorized by RCW 18.130.345, the possession, use, prescription for use, or distribution of controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes, diversion of controlled substances or legend drugs, the violation of any drug law, or prescribing controlled substances for oneself;

(7) Violation of any state or federal statute or administrative rule regulating the profession in question, including any statute or rule defining or establishing standards of patient care or professional conduct or practice;

(8) Failure to cooperate with the disciplining authority by:

(a) Not furnishing any papers, documents, records, or other items;

(b) Not furnishing in writing a full and complete explanation covering the matter contained in the complaint filed with the disciplining authority;

(c) Not responding to subpoenas issued by the disciplining authority, whether or not the recipient of the subpoena is the accused in the proceeding; or

(d) Not providing reasonable and timely access for authorized representatives of the disciplining authority seeking to perform practice reviews at facilities utilized by the license holder;

(9) Failure to comply with an order issued by the disciplining authority or a stipulation for informal disposition entered into with the disciplining authority;

(10) Aiding or abetting an unlicensed person to practice when a license is required;

(11) Violations of rules established by any health agency;

(12) Practice beyond the scope of practice as defined by law or rule;

(13) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

(14) Failure to adequately supervise auxiliary staff to the extent that the consumer's health or safety is at risk;

(15) Engaging in a profession involving contact with the public while suffering from a contagious or infectious disease involving serious risk to public health;

(16) Promotion for personal gain of any unnecessary or ineffective drug, device, treatment, procedure, or service;

(17) Conviction of any gross misdemeanor or felony relating to the practice of the person's profession. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(18) The procuring, or aiding or abetting in procuring, a criminal abortion;

(19) The offering, undertaking, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine, or the treating, operating, or prescribing for any health condition by a method, means, or procedure which the licensee refuses to divulge upon demand of the disciplining authority;

(20) The willful betrayal of a practitioner-patient privilege as recognized by law;

(21) Violation of chapter 19.68 RCW;

(22) Interference with an investigation or disciplinary proceeding by willful misrepresentation of facts before the disciplining authority or its authorized representative, or by the use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action, or by the use of financial inducements to any patient or witness to prevent or attempt to prevent him or her from providing evidence in a disciplinary proceeding;

(23) Current misuse of:

(a) Alcohol;

(b) Controlled substances; or

(c) Legend drugs;

(24) Abuse of a client or patient or sexual contact with a client or patient;

(25) Acceptance of more than a nominal gratuity, hospitality, or subsidy offered by a representative or vendor of medical or health-related products or services intended for patients, in contemplation of a sale or for use in research publishable in professional journals, where a conflict of interest is presented, as defined by rules of the disciplining authority, in consultation with the department, based on recognized professional ethical standards;

(26) Performing any prohibited aversive mental health therapy on a patient."

Correct the title.

Signed by Representatives Cody, Chair; Riccelli, Vice Chair; Caldier; Clibborn; Jinkins; Johnson; Moeller; Robinson; Tharinger and Van De Wege.

MINORITY recommendation: Do not pass. Signed by Representatives Schmick, Ranking Minority Member Harris, Assistant Ranking Minority Member.

MINORITY recommendation: Without recommendation. Signed by Representatives Rodne and Short.

Passed to Committee on Rules for second reading.

March 26, 2015

SSB 5877

Prime Sponsor, Committee on Health Care: Concerning due process for adult family home licensees. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.128.160 and 2013 c 300 s 4 are each amended to read as follows:

(1) The department is authorized to take one or more of the actions listed in subsection (2) of this section in any case in which the department finds that an adult family home provider has:

(a) Failed or refused to comply with the requirements of this chapter or the rules adopted under this chapter;

(b) Operated an adult family home without a license or under a revoked license;

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

(d) Willfully prevented or interfered with any inspection or investigation by the department.

(2) When authorized by subsection (1) of this section, the department may take one or more of the following actions:

(a) Refuse to issue a license;

(b) Impose reasonable conditions on a license, such as correction within a specified time, training, and limits on the type of clients the provider may admit or serve;

(c) Impose civil penalties of at least one hundred dollars per day per violation;

(d) Impose civil penalties of up to three thousand dollars for each incident that violates adult family home licensing laws and rules, including, but not limited to, chapters 70.128, 70.129, 74.34, and 74.39A RCW and related rules. Each day upon which the same or substantially similar action occurs is a separate violation subject to the assessment of a separate penalty;

(e) Impose civil penalties of up to ten thousand dollars for a current or former licensed provider who is operating an unlicensed home;

(f) Suspend, revoke, or refuse to renew a license; or

(g) Suspend admissions to the adult family home by imposing stop placement.

(3) When the department orders stop placement, the facility shall not admit any person until the stop placement order is terminated. The department may approve readmission of a resident to the facility from a hospital or nursing home during the stop placement. The department shall terminate the stop placement only after: (a) The violations necessitating the stop placement have been corrected; and (b) the provider exhibits the capacity to maintain correction of the violations previously found deficient. However, if

upon the revisit the department finds new violations that the department reasonably believes will result in a new stop placement, the previous stop placement shall remain in effect until the new stop placement is imposed. In order to protect the home's existing residents from potential ongoing neglect, when the provider has been cited for a violation that is repeated, uncorrected, pervasive, or presents a threat to the health, safety, or welfare of one or more residents, and the department has imposed a stop placement, the department shall also impose a condition on license or other remedy to facilitate or spur prompter compliance if the violation has not been corrected, and the provider has not exhibited the capacity to maintain correction, within sixty days of the stop placement.

(4) Nothing in subsection (3) of this section is intended to apply to stop placement imposed in conjunction with a license revocation or summary suspension or to prevent the department from imposing a condition on license or other remedy prior to sixty days after a stop placement, if the department considers it necessary to protect one or more residents' well-being. After a department finding of a violation for which a stop placement has been imposed, the department shall make an on-site revisit of the provider within fifteen working days from the request for revisit, to ensure correction of the violation. For violations that are serious or recurring or uncorrected following a previous citation, and create actual or threatened harm to one or more residents' well-being, including violations of residents' rights, the department shall make an on-site revisit as soon as appropriate to ensure correction of the violation. Verification of correction of all other violations may be made by either a department on-site revisit or by written or photographic documentation found by the department to be credible. This subsection does not prevent the department from enforcing license suspensions or revocations. Nothing in this subsection shall interfere with or diminish the department's authority and duty to ensure that the provider adequately cares for residents, including to make departmental on-site revisits as needed to ensure that the provider protects residents, and to enforce compliance with this chapter.

(5) Chapter 34.05 RCW applies to department actions under this section, except that orders of the department imposing license suspension, stop placement, or conditions for continuation of a license are effective immediately upon notice and shall continue in effect pending ~~((any))~~ a hearing, which must commence no later than sixty days after receipt of a request for a hearing. The time for commencement of a hearing may be extended by agreement of the parties or by the presiding officer for good cause shown by either party, but must commence no later than one hundred twenty days after receipt of a request for a hearing.

(6) A separate adult family home account is created in the custody of the state treasurer. All receipts from civil penalties imposed under this chapter must be deposited into the account. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. The department shall use the special account only for promoting the quality of life and care of residents living in adult family homes.

(7) The department shall by rule specify criteria as to when and how the sanctions specified in this section must be applied. The criteria must provide for the imposition of incrementally more severe penalties for deficiencies that are repeated, uncorrected, pervasive, or present a threat to the health, safety, or welfare of one or more residents. The criteria shall be tiered such that those homes consistently found to have deficiencies will be subjected to increasingly severe penalties. The department shall implement prompt and specific enforcement remedies without delay for providers found to have delivered care or failed to deliver care

resulting in problems that are repeated, uncorrected, pervasive, or present a threat to the health, safety, or welfare of one or more residents. In the selection of remedies, the health, safety, and well-being of residents must be of paramount importance."

Correct the title.

Signed by Representatives Cody, Chair; Riccelli, Vice Chair; Schmick, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Caldier; Clibborn; Jinkins; Johnson; Moeller; Robinson; Rodne; Short; Tharinger and Van De Wege.

Referred to Committee on Appropriations.

March 26, 2015

ESSB 5884 Prime Sponsor, Committee on Law & Justice; Concerning the trafficking of persons. Reported by Committee on Public Safety

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature has long been committed to increasing access to support services for human trafficking victims and promoting awareness of human trafficking throughout Washington state. In 2002, Washington was the first state to work on human trafficking by enacting new laws and by creating an antitrafficking task force. In 2003, Washington was the first state to enact a law making human trafficking a crime.

Since 2002, the Washington state legislature has enacted thirty-eight laws to combat human trafficking. In 2013 and 2014, Washington received top marks from two leading nongovernmental organizations for the strength of its antitrafficking laws. The polaris project gave Washington a perfect score of ten and Washington received an "A" report card from shared hope international's protected innocence challenge. In light of the 2010 winter olympic games taking place in Vancouver, British Columbia, the legislature enacted RCW 47.38.080, permitting an approved nonprofit to place informational human trafficking posters in restrooms located in rest areas along Interstate 5. Sporting events, such as the winter olympic games or the upcoming 2015 United States open golf tournament at Chambers Bay, provide lucrative opportunities for human traffickers to exploit adults and children for labor and sexual services. The legislature finds that an effective way to combat human trafficking is to increase awareness of human trafficking for both victims and the general public alike as well as who and how to contact for help and support services, for both victims and the general public alike.

(2) Human trafficking data are primarily obtained through a hotline reporting system in which victims and witnesses can report cases of human trafficking over the phone. Since 2007, there have been one thousand eight hundred fifty human trafficking calls made through the human trafficking victim hotline system in Washington state, and a total of four hundred thirty-two human trafficking cases reported. It is the intent of the legislature to facilitate an even wider scope of communication with human trafficking victims and witnesses by requiring human trafficking information to be posted in all public restrooms.

NEW SECTION. Sec. 2. A new section is added to chapter 7.68 RCW to read as follows:

(1) The office of crime victims advocacy is designated as the single point of contact in state government regarding the trafficking of persons.

(2) The Washington state clearinghouse on human trafficking is created as an information portal to share and coordinate statewide efforts to combat the trafficking of persons. The clearinghouse will include an internet web site operated by the office of crime victims advocacy, and will serve the following functions:

- (a) Coordinating information regarding all statewide task forces relating to the trafficking of persons including, but not limited to, sex trafficking, commercial sexual exploitation of children, and labor trafficking;
- (b) Publishing the findings and legislative reports of all statewide task forces relating to the trafficking of persons;
- (c) Providing a comprehensive directory of resources for victims of trafficking; and
- (d) Collecting and disseminating up-to-date information regarding the trafficking of persons, including news and legislative efforts, both state and federal.

**Sec. 3.** RCW 7.68.350 and 2003 c 266 s 1 are each amended to read as follows:

(1) There is created the Washington state task force against the trafficking of persons.

(2)(a) The task force shall consist of the following members:

~~((a))~~ (i) One member from each of the two largest caucuses of the senate, appointed by the president of the senate;

(ii) One member from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives;

(iii) The director of the office of ~~((community development))~~ crime victims advocacy, or the director's designee;

~~((b))~~ (iv) The secretary of the department of health, or the secretary's designee;

~~((c))~~ (v) The secretary of the department of social and health services, or the secretary's designee;

~~((d))~~ (vi) The director of the department of labor and industries, or the director's designee;

~~((e))~~ (vii) The commissioner of the employment security department, or the commissioner's designee;

~~((f-Nine))~~ (viii) The attorney general or the attorney general's designee;

(ix) The superintendent of public instruction or the superintendent of public instruction's designee;

(x) The director of the department of agriculture or the director's designee;

(xi) At least one member who is a survivor of human trafficking;

(xii) Eleven members, selected by the director of the office of ~~((community development))~~ crime victims advocacy, that represent public, community-based nonprofit, and private sector organizations ~~((that)),~~ academic institutions, research-based organizations, faith-based organizations, including organizations that are diverse in viewpoint, geography, ethnicity, and culture, and in the populations served. The members must provide, directly or through their organizations, assistance to persons who are victims and survivors of trafficking, or who work on antitrafficking efforts as part of their organization's work, or both.

(b) Additional members may be selected as determined by the director of the office of crime victims advocacy to ensure representation of interested groups.

(3) The task force shall be chaired by the director of the office of ~~((community development))~~ crime victims advocacy, or the director's designee.

(4) The task force shall ~~((carry out))~~ determine the areas of focus and activity including, but not limited to, the following activities:

(a) Measure and evaluate the resource needs of victims and survivors of human trafficking and the progress of the state in

trafficking prevention activities, as well as what is being done in other states and nationally to combat human trafficking;

(b) Identify available federal, state, and local programs that provide services to victims and survivors of trafficking that include, but are not limited to, health care, human services, housing, education, legal assistance, job training or preparation, interpreting services, English as a second language classes, and victim's compensation; ~~((and))~~

(c) Make recommendations on methods to provide a coordinated system of support and assistance to persons who are victims of trafficking; and

(d) Review the statutory response to human trafficking, analyze the impact and effectiveness of strategies contained in the current state laws, and make recommendations on legislation to further the state's antitrafficking efforts.

(5) The task force shall report its ~~((supplemental))~~ findings and make recommendations to the governor and legislature ~~((by June 30, 2004))~~ as needed.

(6) The office of ~~((community development))~~ crime victims advocacy shall provide necessary administrative and clerical support to the task force, within available resources.

(7) The members of the task force shall serve without compensation, but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060, within available resources.

~~((8) The task force expires June 30, 2004.)~~

**Sec. 4.** RCW 7.68.801 and 2013 c 253 s 1 are each amended to read as follows:

(1) The commercially sexually exploited children statewide coordinating committee is established to address the issue of children who are commercially sexually exploited, to examine the practices of local and regional entities involved in addressing sexually exploited children, and to make recommendations on statewide laws and practices.

(2) The committee is convened jointly by the office of the attorney general and the department of commerce and consists of the following members:

(a) One member from each of the two largest caucuses of the house of representatives appointed by the speaker of the house;

(b) One member from each of the two largest caucuses of the senate appointed by the speaker of the senate;

(c) A representative of the governor's office appointed by the governor;

(d) The secretary of the children's administration or his or her designee;

(e) The secretary of the juvenile rehabilitation administration or his or her designee;

(f) The attorney general or his or her designee;

(g) The superintendent of public instruction or his or her designee;

(h) A representative of the administrative office of the courts appointed by the administrative office of the courts;

(i) The executive director of the Washington association of sheriffs and police chiefs or his or her designee;

(j) The executive director of the Washington state criminal justice training commission or his or her designee;

(k) A representative of the Washington association of prosecuting attorneys appointed by the association;

(l) The executive director of the office of public defense or his or her designee;

(m) Three representatives of community service providers that provide direct services to commercially sexually exploited children appointed by the attorney general;

(n) Two representatives of nongovernmental organizations familiar with the issues affecting commercially sexually exploited children appointed by the attorney general;

- (o) The president of the superior court judges' association or his or her designee;
- (p) The president of the juvenile court administrators or his or her designee;
- (q) Any existing chairs of regional task forces on commercially sexually exploited children;
- (r) A representative from the criminal defense bar;
- (s) A representative of the center for children and youth justice;
- (t) A representative from the office of crime victims advocacy;
- ~~((and))~~
- (u) The executive director of the Washington coalition of sexual assault programs;
- (v) A representative of an organization that provides in-patient chemical dependency treatment to youth, appointed by the attorney general;
- (w) A representative of an organization that provides mental health treatment to youth, appointed by the attorney general; and
- (x) A survivor of human trafficking, appointed by the attorney general.
- (3) The duties of the committee include, but are not limited to:
- (a) Overseeing and reviewing the implementation of the Washington state model protocol for commercially sexually exploited children at pilot sites;
- (b) Receiving reports and data from local and regional entities regarding the incidence of commercially sexually exploited children in their areas as well as data information regarding perpetrators, geographic data and location trends, and any other data deemed relevant;
- (c) Receiving reports on local coordinated community response practices and results of the community responses;
- (d) Reviewing recommendations from local and regional entities regarding policy and legislative changes that would improve the efficiency and effectiveness of local response practices;
- (e) Making recommendations regarding policy and legislative changes that would improve the effectiveness of the state's response to and promote best practices for suppression of the commercial sexual exploitation of children;
- (f) Making recommendations regarding data collection useful to understanding or addressing the problem of commercially sexually exploited children; ~~((and))~~
- (g) Reviewing and making recommendations regarding strategic local investments or opportunities for federal and state funding to address the commercial sexual exploitation of children;
- (h) Reviewing the extent to which chapter 289, Laws of 2010 (Engrossed Substitute Senate Bill No. 6476) is understood and applied by enforcement authorities;
- (i) Researching any barriers that exist to full implementation of chapter 289, Laws of 2010 (Engrossed Substitute Senate Bill No. 6476) throughout the state;
- (j) Researching, reviewing, and making recommendations regarding the policy of eliminating prosecution of juveniles for prostitute and prostitution loitering; and
- (k) Researching, reviewing, and making recommendations regarding the provision of services to juveniles suspected of prostitution and prostitution loitering in lieu of prosecution.
- (4) The committee must meet no less than annually.
- (5) The committee shall report its findings to the appropriate committees of the legislature and to any other known statewide committees addressing trafficking or the commercial sex trade by June 30~~((th of each year))~~, 2017.
- (6) In addition to its report under subsection (5) of this section, the committee shall report its findings regarding its duties under subsection (3)(h) through (k) of this section to the appropriate committees of the legislature by February 1, 2016.
- (7) This section expires June 30, ~~((2015))~~ 2017.

NEW SECTION. Sec. 5. A new section is added to chapter 47.38 RCW to read as follows:

(1) Every establishment that maintains restrooms for use by the public may voluntarily, upon availability of the model notice as described in subsection (2) of this section, post a notice that complies with the requirements of this section in a conspicuous place within all restrooms of the establishment in clear view of the public and employees. The office of crime victims advocacy may work with businesses and other establishments and with human trafficking victim advocates to adopt policies for the placement of such notices.

(2)(a) The model notice that may be voluntarily posted pursuant to subsection (1) of this section may be in a variety of languages and include toll-free telephone numbers a person may call for assistance, including the number for the national human trafficking resource center and the number for the Washington state office of crime victims advocacy.

(b) The office of crime victims advocacy shall review and approve the initial form and content of the model notice to ensure the notice is appropriate for public display and likely to be an effective communication to reach human trafficking victims. The office of crime victims advocacy shall review the model notice on a yearly basis to ensure the information provided remains accurate.

(3) The cost of production, printing, and posting of the model notices shall be paid by a participating nonprofit at no cost to the state.

(4) The office of crime victims advocacy must provide a report to the appropriate committees of the legislature no later than December 31, 2016, regarding the voluntary participation in this effort.

NEW SECTION. Sec. 6. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

Signed by Representatives Goodman, Chair; Orwall, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton; Griffey; Moscoso; Pettigrew and Wilson.

Referred to Committee on General Government & Information Technology.

March 25, 2015

ESSB 5899 Prime Sponsor, Committee on Financial Institutions & Insurance: Addressing small loans and small consumer installment loans. Reported by Committee on Business & Financial Services

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

### "CHECK CASHERS AND SELLERS

**Sec. 1.** RCW 31.45.010 and 2012 c 17 s 7 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this ~~((chapter))~~ subchapter.

(1) "Applicant" means a person that files an application for a license under this ~~((chapter))~~ subchapter, including the applicant's sole proprietor, owners, directors, officers, partners, members, and controlling persons.



~~((2))~~ ~~("Borrower" means a natural person who receives a small loan.~~

~~((3))~~ ~~("Business day" means any day that the licensee is open for business in at least one physical location.~~

~~((4))~~ ~~("Check" means the same as defined in RCW 62A.3-104(f) and, for purposes of conducting the business of making small loans, includes other electronic forms of payment, including stored value cards, internet transfers, and automated clearinghouse transactions.~~

~~((5))~~ ~~((3))~~ ~~"Check casher" means an individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole or in part, in the business of cashing checks, drafts, money orders, or other commercial paper serving the same purpose.~~

~~((6))~~ ~~((4))~~ ~~"Check seller" means an individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole or in part, in the business of or selling checks, drafts, money orders, or other commercial paper serving the same purpose.~~

~~((7))~~ ~~"Collateral" means the same as defined in chapter 62A.9A RCW.~~

~~((8))~~ ~~((5))~~ ~~"Controlling person" means a person owning or controlling ten percent or more of the total outstanding shares of the applicant or licensee, if the applicant or licensee is a corporation, and a member who owns ten percent or more of a limited liability company or limited liability partnership.~~

~~((9))~~ ~~"Default" means the borrower's failure to repay the small loan in compliance with the terms contained in the small loan agreement or note or failure to pay any installment plan payment on an installment plan within ten days after the date upon which the installment was scheduled to be paid.~~

~~((10))~~ ~~((6))~~ ~~"Department" means the department of financial institutions.~~

~~((7))~~ ~~"Director" means the director of ((financial institutions)) the department.~~

~~((11))~~ ~~((8))~~ ~~"Financial institution" means a commercial bank, savings bank, savings and loan association, or credit union.~~

~~((12))~~ ~~"Installment plan" is a contract between a licensee and borrower that provides that the loaned amount will be repaid in substantially equal installments scheduled on or after a borrower's pay dates and no less than fourteen days apart.~~

~~((13))~~ ~~((9))~~ ~~"Licensee" means a check casher or seller licensed by the director to engage in business in accordance with this ((chapter)) subchapter. "Licensee" also means a check casher or seller, whether located within or outside of this state, who fails to obtain the license ((or small loan endorsement)) required by this ((chapter)) subchapter.~~

~~((14))~~ ~~"Loaned amount" means the outstanding principal balance and any fees authorized under RCW 31.45.073 that have not been paid by the borrower.~~

~~((15))~~ ~~"Origination date" means the date upon which the borrower and the licensee initiate a small loan transaction.~~

~~((16))~~ ~~"Outstanding principal balance" of a small loan means any of the principal amount that has not been paid by the borrower.~~

~~((17))~~ ~~"Paid" means that moment in time when the licensee deposits the borrower's check or accepts cash for the full amount owing on a valid small loan. If the borrower's check is returned by the borrower's bank for any reason, the licensee shall not consider the loan paid.~~

~~((18))~~ ~~((10))~~ ~~"Person" means an individual, partnership, association, limited liability company, limited liability partnership, trust, corporation, and any other legal entity.~~

~~((19))~~ ~~((11))~~ ~~"Principal" means the loan proceeds advanced for the benefit of the borrower in a small loan, excluding any fee or interest charge.~~

~~((20))~~ ~~"Rescission" means annulling the loan contract and, with respect to the small loan contract, returning the borrower and the licensee to their financial condition prior to the origination date of the loan.~~

~~((21))~~ ~~((12))~~ ~~"Small loan" means a loan of up to the maximum amount and for a period of time up to the maximum term specified in RCW 31.45.073.~~

~~((22))~~ ~~"Termination date" means the date upon which payment for the small loan transaction is due or paid to the licensee, whichever occurs first.~~

~~((23))~~ ~~"Total of payments" means the principal amount of the small loan plus all fees or interest charged on the loan.~~

~~((24))~~ ~~"Trade secret" means the same as defined in RCW 19.108.010.)~~

**Sec. 2.** RCW 31.45.020 and 2003 c 86 s 2 are each amended to read as follows:

(1) This ~~((chapter))~~ subchapter does not apply to:

(a) Any financial institution or trust company authorized to do business in Washington;

(b) The cashing of checks, drafts, or money orders by any person who cashes checks, drafts, or money orders as a convenience, as a minor part of its customary business, and not for profit;

(c) The issuance or sale of checks, drafts, or money orders by any corporation, partnership, or association that has a net worth of not less than three million dollars as shown by audited financial statements; and

(d) The issuance or sale of checks, drafts, money orders, or other commercial paper serving the same purpose by any agent of a corporation, partnership, or association described in (c) of this subsection.

(2) Upon application to the director, the director may exempt a person from any or all provisions of this ~~((chapter))~~ subchapter upon a finding by the director that although not otherwise exempt under this section, the applicant is not primarily engaged in the business of cashing or selling checks and a total or partial exemption would not be detrimental to the public.

**Sec. 3.** RCW 31.45.030 and 2005 c 274 s 255 are each amended to read as follows:

(1) Except as provided in RCW 31.45.020, no check casher or seller may engage in business without first obtaining a license from the director in accordance with this ~~((chapter))~~ subchapter. A license is required for each location where a licensee engages in the business of cashing or selling checks or drafts.

(2) Each application for a license shall be in writing in a form prescribed by the director and shall contain the following information:

(a) The legal name, residence, and business address of the applicant and, if the applicant is a partnership, association, or corporation, of every member, officer, and director thereof;

(b) The location where the initial registered office of the applicant will be located in this state;

(c) The complete address of any other locations at which the applicant proposes to engage in business as a check casher or seller; and

(d) Such other data, financial statements, and pertinent information as the director may require with respect to the applicant, its directors, trustees, officers, members, or agents.

(3) Any information in the application regarding the personal residential address or telephone number of the applicant, and any trade secret as defined in RCW 19.108.010 including any financial statement that is a trade secret, is exempt from the public records disclosure requirements of chapter 42.56 RCW.

(4) The application shall be filed together with an investigation and supervision fee established by rule by the director. Such fees

collected shall be deposited to the credit of the financial services regulation fund in accordance with RCW 43.320.110.

(5)(a) Before granting a license to sell checks, drafts, or money orders under this ~~((chapter))~~ subchapter, the director shall require that the licensee file with the director a surety bond running to the state of Washington, which bond shall be issued by a surety insurer which meets the requirements of chapter 48.28 RCW, and be in a format acceptable to the director. The director shall adopt rules to determine the penal sum of the bond that shall be filed by each licensee. The bond shall be conditioned upon the licensee paying all persons who purchase checks, drafts, or money orders from the licensee the face value of any check, draft, or money order which is dishonored by the drawee bank, savings bank, or savings and loan association due to insufficient funds or by reason of the account having been closed. The bond shall only be liable for the face value of the dishonored check, draft, or money order, and shall not be liable for any interest or consequential damages.

~~(b) ((Before granting a small loan endorsement under this chapter, the director shall require that the licensee file with the director a surety bond, in a format acceptable to the director, issued by a surety insurer that meets the requirements of chapter 48.28 RCW. The director shall adopt rules to determine the penal sum of the bond that shall be filed by each licensee. A licensee who wishes to engage in both check selling and making small loans may combine the penal sums of the bonding requirements and file one bond in a form acceptable to the director. The bond shall run to the state of Washington as obligee, and shall run to the benefit of the state and any person or persons who suffer loss by reason of the licensee's violation of this chapter or any rules adopted under this chapter. The bond shall only be liable for damages suffered by borrowers as a result of the licensee's violation of this chapter or rules adopted under this chapter, and shall not be liable for any interest or consequential damages.~~

~~((e))~~ The bond shall be continuous and may be canceled by the surety upon the surety giving written notice to the director and licensee of its intent to cancel the bond. The cancellation is effective thirty days after the notice is received by the director. Whether or not the bond is renewed, continued, reinstated, reissued, or otherwise extended, replaced, or modified, including increases or decreases in the penal sum, it shall be considered one continuous obligation, and the surety upon the bond shall not be liable in an aggregate or cumulative amount exceeding the penal sum set forth on the face of the bond. In no event shall the penal sum, or any portion thereof, at two or more points in time be added together in determining the surety's liability. The bond shall not be liable for any liability of the licensee for tortious acts, whether or not such liability is imposed by statute or common law, or is imposed by contract. The bond shall not be a substitute or supplement to any liability or other insurance required by law or by the contract. If the surety desires to make payment without awaiting court action against it, the penal sum of the bond shall be reduced to the extent of any payment made by the surety in good faith under the bond.

~~((d))~~ ~~((c))~~ Any person who is a purchaser of a check, draft, or money order from the licensee having a claim against the licensee for the dishonor of any check, draft, or money order by the drawee bank, savings bank, or savings and loan association due to insufficient funds or by reason of the account having been closed, or who obtained a small loan from the licensee and was damaged by the licensee's violation of this ~~((chapter))~~ subchapter or rules adopted under this ~~((chapter))~~ subchapter, may bring suit upon such bond or deposit in the superior court of the county in which the check, draft, or money order was purchased, or in the superior court of a county in which the licensee maintains a place of business. Jurisdiction shall be exclusively in the superior court. Any such action must be brought not later than one year after the

dishonor of the check, draft, or money order on which the claim is based. In the event valid claims against a bond or deposit exceed the amount of the bond or deposit, each claimant shall only be entitled to a pro rata amount, based on the amount of the claim as it is valid against the bond, or deposit, without regard to the date of filing of any claim or action.

~~((e))~~ ~~((d))~~ In lieu of the surety bond required by this section, the applicant for a check seller license may file with the director a deposit consisting of cash or other security acceptable to the director in an amount equal to the penal sum of the required bond. ~~((In lieu of the surety bond required by this section, the applicant for a small loan endorsement may file with the director a deposit consisting of cash or other security acceptable to the director in an amount equal to the penal sum of the required bond, or may demonstrate to the director net worth in excess of three times the amount of the penal sum of the required bond.))~~

The director may adopt rules necessary for the proper administration of the security or to establish reporting requirements to ensure that the net worth requirements continue to be met. A deposit given instead of the bond required by this section is not an asset of the licensee for the purpose of complying with the liquid asset provisions of this ~~((chapter))~~ subchapter. A deposit given instead of the bond required by this section is a fund held in trust for the benefit of eligible claimants under this section and is not an asset of the estate of any licensee that seeks protection voluntarily or involuntarily under the bankruptcy laws of the United States.

~~((f))~~ ~~((e))~~ Such security may be sold by the director at public auction if it becomes necessary to satisfy the requirements of this ~~((chapter))~~ subchapter. Notice of the sale shall be served upon the licensee who placed the security personally or by mail. If notice is served by mail, service shall be addressed to the licensee at its address as it appears in the records of the director. Bearer bonds of the United States or the state of Washington without a prevailing market price must be sold at public auction. Such bonds having a prevailing market price may be sold at private sale not lower than the prevailing market price. Upon any sale, any surplus above amounts due shall be returned to the licensee, and the licensee shall deposit with the director additional security sufficient to meet the amount required by the director. A deposit given instead of the bond required by this section shall not be deemed an asset of the licensee for the purpose of complying with the liquid asset provisions of this ~~((chapter))~~ subchapter.

**Sec. 4.** RCW 31.45.040 and 2003 c 86 s 4 are each amended to read as follows:

(1) The director shall conduct an investigation of every applicant to determine the financial responsibility, experience, character, and general fitness of the applicant. The director shall issue the applicant a license to engage in the business of cashing or selling checks, or both, ~~((or a small loan endorsement,))~~ if the director determines to his or her satisfaction that:

(a) The applicant has satisfied the requirements of RCW 31.45.030;

(b) The applicant is financially responsible and appears to be able to conduct the business of cashing or selling checks ~~((or making small loans))~~ in an honest, fair, and efficient manner with the confidence and trust of the community; and

(c) The applicant has the required bonds, or has provided an acceptable alternative form of financial security.

(2) The director may refuse to issue a license ~~((or small loan endorsement))~~ if he or she finds that the applicant, or any person who is a director, officer, partner, agent, sole proprietor, owner, or controlling person of the applicant, has been convicted of a felony in any jurisdiction within seven years of filing the present application or is associating or consorting with any person who has been convicted of a felony in any jurisdiction within seven years of filing the present application. The term "substantial stockholder" as

used in this subsection, means a person owning or controlling ten percent or more of the total outstanding shares of the applicant corporation.

(3) A license (~~(or small loan endorsement)~~) may not be issued to an applicant:

(a) Whose license to conduct business under this (~~(chapter)~~) subchapter, or any similar statute in any other jurisdiction, has been suspended or revoked within five years of the filing of the present application;

(b) Who has been banned from the industry by an administrative order issued by the director or the director's designee, for the period specified in the administrative order; or

(c) When any person who is a sole proprietor, owner, director, officer, partner, agent, or controlling person of the applicant has been banned from the industry in an administrative order issued by the director, for the period specified in the administrative order.

(4) A license (~~(or small loan endorsement)~~) issued under this (~~(chapter)~~) subchapter shall be conspicuously posted in the place of business of the licensee. The license is not transferable or assignable.

(5) A license (~~(or small loan endorsement)~~) issued in accordance with this (~~(chapter)~~) subchapter remains in force and effect until surrendered, suspended, or revoked, or until the license expires as a result of nonpayment of the annual assessment fee.

**Sec. 5.** RCW 31.45.050 and 2003 c 86 s 5 are each amended to read as follows:

(1) Each applicant and licensee shall pay to the director an investigation or examination fee as established in rule and an annual assessment fee for the coming year in an amount determined by rule as necessary to cover the operation of the program. The annual assessment fee is due upon the annual assessment fee due date as established in rule. Nonpayment of the annual assessment fee may result in expiration of the license as provided in subsection (2) of this section. In establishing the fees, the director shall differentiate between check cashing and check selling (~~(and making small loans,)~~) and consider at least the volume of business, level of risk, and potential harm to the public related to each activity. The fees collected shall be deposited to the credit of the financial services regulation fund in accordance with RCW 43.320.110.

(2) If a licensee does not pay its annual assessment fee by the annual assessment fee due date as specified in rule, the director or the director's designee shall send the licensee a notice of suspension and assess the licensee a late fee not to exceed twenty-five percent of the annual assessment fee as established in rule by the director. The licensee's payment of both the annual assessment fee and the late fee must arrive in the department's offices by 5:00 p.m. on the tenth day after the annual assessment fee due date, unless the department is not open for business on that date, in which case the licensee's payment of both the annual assessment fee and the late fee must arrive in the department's offices by 5:00 p.m. on the next occurring day that the department is open for business. If the payment of both the annual assessment fee and the late fee does not arrive prior to such time and date, then the expiration of the licensee's license is effective at 5:00 p.m. on the thirtieth day after the assessment fee due date. The director or the director's designee may reinstate the license if, within twenty days after the effective date of expiration, the licensee:

(a) Pays both the annual assessment fee and the late fee; and

(b) Attests under penalty of perjury that it did not engage in conduct requiring a license under this (~~(chapter)~~) subchapter during the period its license was expired, as confirmed by an investigation by the director or the director's designee.

(3) If a licensee intends to do business at a new location, to close an existing place of business, or to relocate an existing place of business, the licensee shall provide written notification of that

intention to the director no less than thirty days before the proposed establishing, closing, or moving of a place of business.

**Sec. 6.** RCW 31.45.060 and 2003 c 86 s 6 are each amended to read as follows:

(1) A schedule of the fees and the charges for the cashing and selling of checks, drafts, money orders, or other commercial paper serving the same purpose shall be conspicuously and continuously posted in every location licensed under this (~~(chapter)~~) subchapter. The licensee shall provide to its customer a receipt for each transaction. The receipt must include the name of the licensee, the type and amount of the transaction, and the fee or fees charged for the transaction.

(2) Each licensee shall keep and maintain such business books, accounts, and records as the director may require to fulfill the purposes of this (~~(chapter)~~) subchapter. Every licensee shall preserve such books, accounts, and records as required in rule by the director for at least two years from the completion of the transaction. Records may be maintained on an electronic, magnetic, optical, or other storage media. However, the licensee must maintain the necessary technology to permit access to the records by the department for the period required under this (~~(chapter)~~) subchapter.

(3) A check, draft, or money order sold by a licensee shall be drawn on an account of a licensee maintained in a federally insured financial institution authorized to do business in the state of Washington.

**Sec. 7.** RCW 31.45.070 and 2012 c 17 s 9 are each amended to read as follows:

(1) No licensee may engage in a loan business; the negotiation of loans; or the discounting of notes, bills of exchange, checks, or other evidences of debt in the same premises where a check cashing or selling business is conducted, unless the licensee:

(a) Is conducting the activities of pawnbroker as defined in RCW 19.60.010;

(b) Is a properly licensed consumer loan company under chapter 31.04 RCW; or

(c) Is conducting other lending activity permitted in the state of Washington (~~(or~~

~~(d) Has a small loan endorsement issued under this chapter).~~

(2) Except as otherwise permitted in this (~~(chapter)~~) subchapter, no licensee may at any time cash or advance any moneys on a postdated check or draft. However, a licensee may cash a check payable on the first banking day following the date of cashing if:

(a) The check is drawn by the United States, the state of Washington, or any political subdivision of the state, or by any department or agency of the state or its subdivisions; or

(b) The check is a payroll check drawn by an employer to the order of its employee in payment for services performed by the employee.

(3) Except as otherwise permitted in this (~~(chapter)~~) subchapter, no licensee may agree to hold a check or draft for later deposit. A licensee must deposit all checks and drafts cashed by the licensee as soon as practicable.

(4) No licensee may issue or cause to be issued any check, draft, or money order, or other commercial paper serving the same purpose, that is drawn upon the trust account of a licensee without concurrently receiving the full principal amount, in cash, or by check, draft, or money order from a third party believed to be valid.

(5) Each licensee shall comply with all applicable state and federal statutes relating to the activities governed by this (~~(chapter)~~) subchapter.

**Sec. 8.** RCW 31.45.090 and 2005 c 274 s 257 are each amended to read as follows:

(1) Each licensee shall submit to the director, in a form approved by the director, a report containing financial statements covering the calendar year or, if the licensee has an established fiscal year, then for such fiscal year, within one hundred five days after the close of each calendar or fiscal year. The licensee shall also file such additional relevant information as the director may require. Any information provided by a licensee in an annual report that constitutes a trade secret under chapter 19.108 RCW is exempt from disclosure under chapter 42.56 RCW, unless aggregated with information supplied by other licensees in such a manner that the licensee's individual information is not identifiable. Any information provided by the licensee that allows identification of the licensee may only be used for purposes reasonably related to the regulation of licensees to ensure compliance with this ~~((chapter))~~ subchapter.

(2) A licensee whose license has been suspended or revoked shall submit to the director, at the licensee's expense, within one hundred five days after the effective date of such surrender or revocation, a closing audit report containing audited financial statements as of such effective date for the twelve months ending with such effective date.

(3) The director shall adopt rules specifying the form and content of such audit reports and may require additional reporting as is necessary for the director to ensure compliance with this ~~((chapter))~~ subchapter.

**Sec. 9.** RCW 31.45.100 and 2003 c 86 s 16 are each amended to read as follows:

The director or the director's designee may at any time examine and investigate the business and examine the books, accounts, records, and files, or other information, wherever located, of any licensee or person who the director has reason to believe is engaging in the business governed by this ~~((chapter))~~ subchapter. For these purposes, the director or the director's designee may require the attendance of and examine under oath all persons whose testimony may be required about the business or the subject matter of the investigation. The director or the director's designee may require the production of original books, accounts, records, files, or other information, or may make copies of such original books, accounts, records, files, or other information. The director or the director's designee may issue a subpoena or subpoena duces tecum requiring attendance and testimony, or the production of the books, accounts, records, files, or other information. The director shall collect from the licensee the actual cost of the examination or investigation.

**Sec. 10.** RCW 31.45.105 and 2012 c 17 s 10 are each amended to read as follows:

(1) It is a violation of this ~~((chapter))~~ subchapter for any person subject to this ~~((chapter))~~ subchapter to:

(a) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead any ~~((borrower, to defraud or mislead any lender, or to defraud or mislead any))~~ person;

(b) Directly or indirectly engage in any unfair or deceptive practice toward any person; and

(c) Directly or indirectly obtain property by fraud or misrepresentation;

~~((d) Make a small loan to any person physically located in Washington through use of the internet, facsimile, telephone, kiosk, or other means without first obtaining a small loan endorsement; and~~

~~((e) Sell in a retail installment transaction under chapter 63.14 RCW open loop prepaid access (prepaid access as defined in 31 C.F.R. Part 1010.100(w)) and not closed loop prepaid access as defined in 31 C.F.R. Part 1010.100(kkk)).~~

(2) It is a violation of this ~~((chapter))~~ subchapter for any person subject to this ~~((chapter))~~ subchapter to:

(a) Advertise, print, display, publish, distribute, or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, or ~~((broadcast [broadcasted]))~~ broadcasted any statement or representation that is false, misleading, or deceptive, or that omits material information;

(b) Fail to pay the annual assessment by the date and time as specified in RCW 31.45.050;

(c) Fail to pay any other fee, assessment, or moneys due the department.

(3) In addition to any other penalties, any transaction in violation of subsection (1) of this section is uncollectible and unenforceable.

**Sec. 11.** RCW 31.45.110 and 2014 c 36 s 7 are each amended to read as follows:

(1) The director may issue and serve upon a licensee or applicant, or any director, officer, sole proprietor, partner, or controlling person of a licensee or applicant, a statement of charges if, in the opinion of the director, any licensee or applicant, or any director, officer, sole proprietor, partner, or controlling person of a licensee or applicant:

(a) Is engaging or has engaged in an unsafe or unsound financial practice in conducting a business governed by this ~~((chapter))~~ subchapter;

(b) Is violating or has violated this ~~((chapter))~~ subchapter, including violations of:

(i) Any rules, orders, or subpoenas issued by the director under any act;

(ii) Any condition imposed in writing by the director in connection with the granting of any application or other request by the licensee; or

(iii) Any written agreement made with the director;

(c) Is about to do the acts prohibited in (a) or (b) of this subsection when the opinion that the threat exists is based upon reasonable cause;

(d) Obtains a license by means of fraud, misrepresentation, concealment, or through mistake or inadvertence of the director;

(e) Provides false statements or omits material information on an application;

(f) Knowingly or negligently omits material information during or in response to an examination or in connection with an investigation by the director;

(g) Fails to pay a fee or assessment required by the director or any multistate licensing system prescribed by the director, or fails to maintain the required bond or deposit;

(h) Commits a crime against the laws of any jurisdiction involving moral turpitude, financial misconduct, or dishonest dealings. For the purposes of this section, a certified copy of the final holding of any court, tribunal, agency, or administrative body of competent jurisdiction is conclusive evidence in any hearing under this ~~((chapter))~~ subchapter;

(i) Knowingly commits or is a party to any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme, or device whereby any other person relying upon the word, representation, or conduct acts to his or her injury or damage;

(j) Converts any money or its equivalent to his or her own use or to the use of his or her principal or of any other person;

(k) Fails to disclose any information within his or her knowledge or fails to produce any document, book, or record in his or her possession for inspection by the director upon demand;

(l) Commits any act of fraudulent or dishonest dealing. For the purposes of this section, a certified copy of the final holding of any court, tribunal, agency, or administrative body of competent jurisdiction is conclusive evidence in any hearing under this ~~((chapter))~~ subchapter;

(m) Commits an act or engages in conduct that demonstrates incompetence or untrustworthiness, or is a source of injury and loss to the public;

(n) Violates any applicable state or federal law relating to the activities governed by this ((chapter)) subchapter.

(2) The statement of charges must be issued under chapter 34.05 RCW. The director or the director's designee may impose the following sanctions against any licensee or applicant, or any directors, officers, sole proprietors, partners, controlling persons, or employees of a licensee or applicant:

(a) Deny, revoke, suspend, or condition a license ((or small loan endorsement));

(b) Order the licensee or person to cease and desist from practices that violate this ((chapter)) subchapter or constitute unsafe and unsound financial practices;

(c) Impose a fine not to exceed one hundred dollars per day for each day's violation of this ((chapter)) subchapter;

(d) Order restitution or refunds to borrowers or other parties for violations of this ((chapter)) subchapter or take other affirmative action as necessary to comply with this ((chapter)) subchapter; and

(e) Remove from office or ban from participation in the affairs of any licensee any director, officer, sole proprietor, partner, controlling person, or employee of a licensee.

(3) The proceedings to impose the sanctions described in subsection (2) of this section, including any hearing or appeal of the statement of charges, are governed by chapter 34.05 RCW. The statute of limitations on actions not subject to RCW 4.16.160 that are brought under this ((chapter)) subchapter by the director is five years.

(4) Unless the licensee or person personally appears at the hearing or is represented by a duly authorized representative, the licensee is deemed to have consented to the statement of charges and the sanctions imposed in the statement of charges.

(5) Except to the extent prohibited by another statute, the director may engage in informal settlement of complaints or enforcement actions including, but not limited to, payment to the department for purposes of financial literacy and education programs authorized under RCW 43.320.150.

**Sec. 12.** RCW 31.45.150 and 1994 c 92 s 287 are each amended to read as follows:

Whenever as a result of an examination or report it appears to the director that:

(1) The capital of any licensee is impaired;

(2) Any licensee is conducting its business in such an unsafe or unsound manner as to render its further operations hazardous to the public;

(3) Any licensee has suspended payment of its trust obligations;

(4) Any licensee has refused to submit its books, papers, and affairs to the inspection of the director or the director's examiner;

(5) Any officer of any licensee refuses to be examined under oath regarding the business of the licensee;

(6) Any licensee neglects or refuses to comply with any order of the director made pursuant to this ((chapter)) subchapter unless the enforcement of such order is restrained in a proceeding brought by such licensee;

the director may immediately take possession of the property and business of the licensee and retain possession until the licensee resumes business or its affairs are finally liquidated as provided in RCW 31.45.160. The licensee may resume business upon such terms as the director may prescribe.

**Sec. 13.** RCW 31.45.180 and 1994 c 92 s 290 are each amended to read as follows:

Any person who violates or participates in the violation of any provision of the rules or orders of the director or of this ((chapter)) subchapter is guilty of a misdemeanor.

**Sec. 14.** RCW 31.45.190 and 1991 c 355 s 19 are each amended to read as follows:

The legislature finds and declares that any violation of this ((chapter)) subchapter substantially affects the public interest and is an unfair and deceptive act or practice and an unfair method of competition in the conduct of trade or commerce as set forth in RCW 19.86.020. Remedies available under chapter 19.86 RCW shall not affect any other remedy the injured party may have.

**Sec. 15.** RCW 31.45.200 and 1994 c 92 s 291 are each amended to read as follows:

The director has the power, and broad administrative discretion, to administer and interpret the provisions of this ((chapter)) subchapter to ensure the protection of the public.

**NEW SECTION. Sec. 16.** Subject to section 56 of this act, the following acts or parts of acts are each repealed, effective July 1, 2016, or on and after the effective date of the final rules adopted by the director implementing this act, whichever is later:

(1) RCW 31.45.073 (Making small loans—Endorsement required—Due date—Termination date—Maximum amount—Installment plans—Interest—Fees—Postdated check or draft as security) and 2009 c 510 s 3, 2003 c 86 s 8, & 1995 c 18 s 2;

(2) RCW 31.45.077 (Small loan endorsement—Application—Form—Information—Exemption from disclosure—Fees) and 2005 c 274 s 256, 2003 c 86 s 9, 2001 c 177 s 13, & 1995 c 18 s 3;

(3) RCW 31.45.079 (Making small loans—Agent for a licensee or exempt entity—Federal preemption) and 2003 c 86 s 10;

(4) RCW 31.45.082 (Delinquent small loan—Restrictions on collection by licensee or third party—Definitions) and 2009 c 13 s 1 & 2003 c 86 s 11;

(5) RCW 31.45.084 (Small loan installment plan—Terms—Restrictions) and 2009 c 510 s 4 & 2003 c 86 s 12;

(6) RCW 31.45.085 (Loan application—Required statement—Rules) and 2009 c 510 s 5;

(7) RCW 31.45.086 (Small loans—Right of rescission) and 2003 c 86 s 13;

(8) RCW 31.45.088 (Small loans—Disclosure requirements—Advertising—Making loan) and 2003 c 86 s 14;

(9) RCW 31.45.093 (Information system—Access—Required information—Fees—Rules) and 2009 c 510 s 6;

(10) RCW 31.45.095 (Report by director—Contents) and 2009 c 510 s 7; and

(11) RCW 31.45.210 (Military borrowers—Licensee's duty—Definition) and 2005 c 256 s 1.

**NEW SECTION. Sec. 17.** A new section is added to chapter 31.45 RCW under the subchapter heading "check cashers and sellers" to read as follows:

(1) Small loans made pursuant to this chapter as it existed before the effective date of this section may no longer be made on and after July 1, 2016, or on and after the effective date of the final rules adopted by the director implementing this act, whichever is later, provided the subchapter "small consumer installment loans" becomes law as it is enacted by the legislature.

(2) Provided subsection (1) of this section becomes law as enacted by the legislature and the director adopts final rules implementing this act, all small loan licensees must surrender their small loan license in accordance with the closure rules adopted by the director and pay any applicable assessments due. Notwithstanding surrender or such closure rules, a small loan licensee may collect a small loan with an outstanding balance. The director has the authority to transition the database for small loans as necessary. The director may adopt rules to implement this section.

(3) This section is only effective provided section 16 of this act becomes law as enacted by the legislature.

(4) The director must provide notice of the effective date of the final rules adopted under this section to affected parties, the chief

clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the director.

(5) The director or the director's designee shall take the actions necessary to ensure sections 1 through 18 of this act are implemented.

**NEW SECTION. Sec. 18.** A new section is added to chapter 31.45 RCW under the subchapter heading "check cashers and sellers" to read as follows:

Effective January 1, 2016, the director shall establish, set, and adjust by rule the amount of all fees and charges authorized by this subchapter.

**NEW SECTION. Sec. 19.** RCW 31.45.010 through 31.45.210 constitute the subchapter "check cashers and sellers."

### SMALL CONSUMER INSTALLMENT LOANS

**NEW SECTION. Sec. 20. DEFINITIONS.** The definitions in this section apply throughout this subchapter unless the context clearly requires otherwise.

(1) "Authenticate" means the same as defined in RCW 62A.9A-102.

(2) "Borrower" means a natural person who receives a small consumer installment loan.

(3) "Controlling person" means a person owning or controlling ten percent or more of the total outstanding shares of the applicant or licensee, if the applicant or licensee is a corporation, and a member who owns ten percent or more of a limited liability company or limited liability partnership.

(4) "Department" means the department of financial institutions.

(5) "Director" means the director of the department.

(6) "Final payment date" means the date of the borrower's last scheduled payment on a small consumer installment loan.

(7) "Gross monthly income" means a borrower's or potential borrower's gross monthly income as demonstrated by evidence of income, including, but not limited to, a pay stub, documentation reflecting receipt of public benefits, tax returns, bank statements, or other documentation.

(8) "License" means a license issued by the director under this subchapter.

(9) "Licensee" means a single small consumer installment lender licensed by the director to engage in business in accordance with this subchapter. "Licensee" also means a lender, whether located within or outside of this state, who fails to obtain a license required by this subchapter.

(10) "Loaned amount" means the principal amount of the loan exclusive of any interest, fees, penalties, or charges authorized by this subchapter.

(11) "Military borrower" means:

(a) A "covered borrower" as defined in 32 C.F.R. Sec. 232.3; and

(b)(i) A member of the reserve components of the United States army, navy, air force, marine corps, coast guard, army national guard, or air national guard; and

(ii) A spouse or dependent child of a person under (b)(i) of this subsection.

(12) "Person" means an individual, partnership, association, limited liability company, limited liability partnership, trust, corporation, and any other legal entity.

(13) "Record" means the same as defined in RCW 62A.1-201.

(14) "Scheduled payment" means any single payment disclosed in a payment schedule on a federal truth in lending act disclosure. "Scheduled payment" does not mean an actual payment on a date different than a payment on the loan payment schedule, or the

payment in full of a loan before the final payment date on the loan payment schedule.

(15) "Small consumer installment loan" means a loan for personal, family, or household purposes made to a natural person in a single advance with terms as provided for in this subchapter.

(16) "Truth in lending act" means the truth in lending act, 15 U.S.C. Sec. 1601 and Regulation Z, 12 C.F.R. Part 1026.

**NEW SECTION. Sec. 21. APPLICABILITY.** (1) Any small consumer installment loan made to a resident of this state is subject to the authority and restrictions of this subchapter.

(2) This subchapter does not apply to the following:

(a) Any person doing business under, and as permitted by, any law of this state or of the United States relating to banks, savings banks, trust companies, savings and loan or building and loan associations, or credit unions; or

(b) Loans made under chapters 19.60 and 31.04 RCW.

**NEW SECTION. Sec. 22. LICENSE REQUIRED.** No person may engage in advertising or making small consumer installment loans without first obtaining a license from the director in accordance with this subchapter. A license is required for each location where a licensee engages in the business of making small consumer installment loans.

**NEW SECTION. Sec. 23. LICENSE—APPLICATION—FEE—BOND—INFORMATION FROM APPLICANTS.** (1) Each application for a license must be in writing in a form prescribed by the director and must contain the following information:

(a) The legal name, residence, and business address of the applicant and, if the applicant is a partnership, association, limited liability company, limited liability partnership, or corporation, of every member, officer, principal, or director thereof;

(b) The location where the initial registered office of the applicant will be located;

(c) The complete address of any other locations at which the applicant currently proposes to engage in making small consumer installment loans; and

(d) Such other data, financial statements, and pertinent information as the director may require with respect to the applicant, its members, principals, or officers.

(2) As part of or in connection with an application for any license under this section, or periodically, each officer, director, and owner applicant shall furnish information concerning his or her identity, including fingerprints for submission to the Washington state patrol or the federal bureau of investigation for a state and national criminal history background check, personal history, experience, business record, purposes, and other pertinent facts, as the director may reasonably require. As part of or in connection with an application for a license under this subchapter, or periodically upon license renewal, the director is authorized to receive criminal history record information that includes nonconviction data as defined in RCW 10.97.030. The director may only disseminate nonconviction data obtained under this section to criminal justice agencies. This section does not apply to financial institutions regulated under chapters 31.12 and 31.13 RCW and Titles 30A, 32, and 33 RCW.

(3) Any information in the application regarding the personal residential address or telephone number of the applicant, any financial information about the applicant and entities owned or controlled by the applicant, and any trade secret as defined in RCW 19.108.010 including any financial statement that is a trade secret, is exempt from the public records disclosure requirements of chapter 42.56 RCW.

(4) The application must be filed together with an application fee established by rule by the director. The fees collected must be deposited to the credit of the financial services regulation fund in accordance with RCW 43.320.110.

(5) Each applicant shall file and maintain a surety bond, approved by the director, executed by the applicant as obligor and by a surety company authorized to do a surety business in this state as surety, whose liability as a surety does not exceed, in the aggregate, the penal sum of the bond. The penal sum of the bond must be a minimum of thirty thousand dollars and a maximum of two hundred fifty thousand dollars based on the annual dollar amount of loans originated. The bond must run to the state of Washington as obligee for the use and benefit of the state and of any person or persons who may have a cause of action against the obligor under this subchapter. The bond must be conditioned that the obligor as licensee will faithfully conform to and abide by this subchapter and all the rules adopted under this subchapter. The bond must pay to the state and any person or persons having a cause of action against the obligor all moneys that may become due and owing to the state and those persons under and by virtue of this subchapter.

**NEW SECTION. Sec. 24. APPLICATION FOR LICENSE—FINANCIAL RESPONSIBILITY—DIRECTOR'S INVESTIGATION.** (1) The director shall conduct an investigation of every applicant to determine the financial responsibility, experience, character, and general fitness of the applicant. The director shall issue the applicant a license to engage in the business of making small consumer installment loans, if the director determines that:

(a) The applicant has satisfied the licensing requirements of this subchapter;

(b) The applicant is financially responsible and appears to be able to conduct the business of making small consumer installment loans in an honest, fair, and efficient manner with the confidence and trust of the community and in accordance with this subchapter; and

(c) The applicant has the required bond.

(2) The director may refuse to issue a license if he or she finds that the applicant, or any person who is a director, officer, partner, agent, sole proprietor, owner, or controlling person of the applicant, has been convicted of a felony in any jurisdiction within seven years of filing the present application or is associating or consorting with any person who has been convicted of a felony in any jurisdiction within seven years of filing the present application.

(3) A license may not be issued to an applicant:

(a) Whose license to conduct business under this subchapter, or any similar statute in any other jurisdiction, has been suspended or revoked within five years of the filing of the present application;

(b) Who has been banned from the industry by an administrative order issued by the director or the director's designee, for the period specified in the administrative order; or

(c) Who has advertised or made internet loans in violation of this subchapter.

(4) A license issued in accordance with this subchapter remains in force and effect until surrendered, suspended, or revoked, or until the license expires as a result of nonpayment of the annual assessment fee as defined in this subchapter.

**NEW SECTION. Sec. 25. MULTISTATE LICENSING SYSTEM—DIRECTOR'S DISCRETION.** Applicants may be required to make application through a multistate licensing system as prescribed by the director. Existing licensees may be required to transition onto a multistate licensing system as prescribed by the director. The applicant shall pay to the nationwide multistate licensing system any additional fee to participate in the system.

**NEW SECTION. Sec. 26. TERMS OF LOANS.** A small consumer installment loan is subject to the following limitations:

(1) The interest charged on the loaned amount must not exceed thirty-six percent per annum, exclusive of fees, penalties, or charges authorized by this subchapter;

(2) The loaned amount must not exceed seven hundred dollars;

(3) The loaned amount and accrued interest and fees must be fully repayable in substantially equal and consecutive installments according to a payment schedule agreed to by the parties;

(4) A loan term must not be less than one hundred eighty days;

(5) A loan term must not be more than one hundred ninety days;

(6) The loaned amount and accrued interest and fees must be fully amortized over the term of the loan; and

(7) The borrower's repayment obligations must not be secured by a lien on any real or personal property.

**NEW SECTION. Sec. 27. LIMITATIONS ON INTEREST AND CHARGES.** Notwithstanding any other provision of law, a licensee, in addition to collecting the principal amount of the loan:

(1) May charge, contract for, and receive interest of no more than thirty-six percent per annum on the outstanding unpaid balance of the loaned amount, exclusive of fees, penalties, or charges authorized by this subchapter;

(2) May charge a loan origination fee on a small consumer installment loan not to exceed fifteen percent of the loaned amount. The origination fee shall not be precomputed, but shall accrue each day until the loan is repaid in full. The amount that accrues each day shall be equal to the total amount of the origination fee divided by the number of days in the loan term. Notwithstanding this subsection, a small consumer installment loan licensee must provide a full refund of all charges after rescission as provided in section 31 of this act;

(3) May charge a monthly maintenance fee on a small consumer installment loan, not to exceed seven and one-half percent of the loaned amount. A monthly maintenance fee is fully earned at the end of each month after the loan origination date when the borrower has a balance outstanding on the last day of the month and is not subject to refund. Notwithstanding this subsection, maintenance fees for a small consumer installment loan shall not exceed an amount equal to forty-five dollars for each month the loan remains unpaid. For the purpose of this subsection, a "month" is measured from a given date of a given calendar month to the same date of the subsequent calendar month. If the origination date of the small consumer installment loan is the last day of a month, months are measured from the last day of that month to the last day of each following month. If the origination date of the small consumer installment loan is the 29th or 30th of a month, the last day of February must be used when applicable;

(4) Is prohibited from charging or collecting interest or fees allowed by subsections (1) through (3) of this section in excess of the interest and fees disclosed in the loan agreement, regardless of whether there is an outstanding balance after the final payment date;

(5) May contract with the borrower to repay the small consumer installment loan in installments that are substantially equal in amount which may be repayable weekly, biweekly, semimonthly, monthly, or in such other repayment frequency as the licensee and borrower may agree;

(6) May include in the amount of each scheduled payment all or part of the following, as applicable: (a) The accrued, pro rata portion of the origination fee; (b) a portion of the monthly maintenance fee equal to the aggregate of all monthly maintenance fees permitted under subsection (3) of this section divided by the total number of scheduled installment payments; (c) accrued interest; and (d) principal;

(7) Is prohibited from making a small consumer installment loan to a borrower if the loaned amount exceeds thirty percent of the borrower's gross monthly income. Gross monthly income must be evidenced by a pay stub or other evidence of income at least once every one hundred eighty days, and such evidence must (a) be no more than forty-five days old when presented to the licensee and (b) have been presented to the licensee no more than one

hundred eighty days before the date on which the small consumer installment loan is made;

(8) May, in the event that any scheduled payment is delinquent thirty days or more:

(a) Charge and collect a penalty of not more than twenty-five dollars per loan; and

(b) Declare the entire loan due and payable and proceed to collect the small consumer installment loan, including only the unpaid balance of the loaned amount and all interest, loan origination, and monthly maintenance fees and penalties accrued at the time the entire loan is declared due and payable;

(9) May collect from the borrower reasonable attorneys' fees, actual expenses, and costs incurred in connection with the collection of any amounts due to a licensee with respect to a small consumer installment loan;

(10) Is prohibited from charging a prepayment fee. A borrower is allowed to pay all or part of a small consumer installment loan before the maturity date without incurring any additional fee;

(11) Is prohibited from requiring a borrower to purchase add-on products such as credit insurance; and

(12) Is prohibited from charging any other interest, fees, penalties, or charges, except those provided in this section.

**NEW SECTION. Sec. 28. LOAN AGREEMENT—**

**REQUIRED CONTENTS.** A licensee making a small consumer installment loan must document the transaction by use of a record authenticated by the licensee and the borrower. This record must set forth the terms and conditions of the loan, including, but not limited to:

(1) The name and address of the borrower and the licensee;

(2) The transaction date;

(3) The loaned amount;

(4) A statement of the total amount of finance charges charged, expressed both as a dollar amount and an annual percentage rate, calculated in accordance with the truth in lending act;

(5) The installment payment schedule;

(6) The right to rescind the loan on or before the close of business on the next day of business at the location where the loan was originated;

(7) A notice to the borrower that delinquency on one scheduled payment may result in a penalty of not more than twenty-five dollars per loan and/or acceleration of the loan;

(8) A description of the methods by which loan payments may be made, which may include cash, check, electronic fund transfers through automated clearing house or debit network, or any additional method of loan payment authorized by the director after rule making. However, (a) a licensee may not condition an extension of credit under a small consumer installment loan on the borrower's repayment by preauthorized electronic fund transfers, and (b) a postdated check or electronic payment authorization used to make a payment on a small consumer installment loan must not be considered security or collateral for the loan; and

(9) A notice to the borrower in at least ten-point type that states:

A SMALL CONSUMER INSTALLMENT LOAN IS NOT INTENDED TO MEET LONG-TERM FINANCIAL NEEDS.

A SMALL CONSUMER INSTALLMENT LOAN SHOULD BE USED ONLY TO MEET SHORT-TERM CASH NEEDS.

WHILE YOU ARE NOT REQUIRED TO REPAY THIS LOAN BEFORE ITS DUE DATE, IT IS IN YOUR BEST INTEREST TO DO SO. THE SOONER YOU REPAY THE LOAN, THE LESS IN INTEREST, FEES, AND OTHER CHARGES YOU WILL PAY.

**NEW SECTION. Sec. 29. NOTICE OF FEES AND CHARGES—RECEIPT.** (1) A schedule of the fees, penalties, and charges for taking out a small consumer installment loan and the licensee's unified business identifier number must be conspicuously and continuously posted in every location licensed under this subchapter.

(2) The licensee shall provide to the borrower a receipt for each small consumer loan transaction. The receipt must include the name of the licensee, the type and amount of the transaction, and the fees and charges charged for the transaction.

**NEW SECTION. Sec. 30. DISBURSEMENT OF PROCEEDS.** A licensee may disburse the proceeds of a small consumer installment loan in the form of a check drawn on the licensee's bank account, in cash, by money order, by prepaid card, by electronic funds transfer, or by other method authorized by the director after rule making.

**NEW SECTION. Sec. 31. RESCISSION.** A borrower may rescind a small consumer installment loan, on or before the close of business on the next day of business at the location where the loan was originated, by returning the principal in cash, the original check disbursed by the licensee, or the other disbursement of loan proceeds from the licensee to fund the loan. The licensee may not charge the borrower for rescinding the loan and must refund any loan fees and interest received. The licensee shall conspicuously disclose to the borrower the right of rescission in writing in the loan agreement.

**NEW SECTION. Sec. 32. DELINQUENT SMALL CONSUMER INSTALLMENT LOAN—RESTRICTIONS ON COLLECTION BY LICENSEE OR THIRD PARTY.** (1) A licensee shall comply with all applicable state and federal laws when collecting a delinquent small consumer installment loan. A licensee may take civil action to collect principal, interest, fees, penalties, charges, and costs allowed under this subchapter. A licensee may not threaten criminal prosecution as a method of collecting a delinquent small consumer installment loan or threaten to take any legal action against the borrower which the licensee may not legally take.

(2) Unless invited by the borrower, a licensee may not visit a borrower's residence or place of employment for the purpose of collecting a delinquent small consumer installment loan. A licensee may not impersonate a law enforcement official, or make any statements which might be construed as indicating an official connection with any federal, state, county, or city law enforcement agency, or any other governmental agency, while engaged in collecting a small consumer installment loan.

(3) A licensee may not communicate with a borrower in such a manner as to harass, intimidate, abuse, or embarrass a borrower, including but not limited to communication at an unreasonable hour, with unreasonable frequency, by threats of force or violence, or by use of offensive language. A communication is presumed to have been made for the purposes of harassment if it is initiated by the licensee for the purposes of collection and:

(a) It is made with a borrower, spouse, or domestic partner in any form, manner, or place, more than three times in a single week;

(b) It is made with a borrower at his or her place of employment more than one time in a single week or made to a borrower after the licensee has been informed that the borrower's employer prohibits these communications;

(c) It is made with the borrower, spouse, or domestic partner at his or her place of residence between the hours of 9:00 p.m. and 7:30 a.m.; or

(d) It is made to a party other than the borrower, the borrower's attorney, the licensee's attorney, or a consumer reporting agency if otherwise permitted by law except for purposes of acquiring location or contact information about the borrower.



(4) A licensee is required to maintain a communication log of all telephone and written communications with a borrower initiated by the licensee regarding any collection efforts including date, time, and the nature of each communication.

(5) If a dishonored check is assigned to any third party for collection, this section applies to the third party for the collection of the dishonored check.

(6) For the purposes of this section, "communication" includes any contact with a borrower, initiated by the licensee, in person, by telephone, or in writing (including emails, text messages, and other electronic writing) regarding the collection of a delinquent small consumer installment loan, but does not include any of the following:

(a) Communication while a borrower is physically present in the licensee's place of business;

(b) An unanswered telephone call in which no message (other than a caller identification) is left, unless the telephone call violates subsection (3)(c) of this section; and

(c) An initial letter to the borrower that includes disclosures intended to comply with the applicable provisions of the federal fair debt collection practices act.

(7) For the purposes of this section:

(a) A communication occurs at the time it is initiated by a licensee regardless of the time it is received or accessed by the borrower; and

(b) A call to a number that the licensee reasonably believes is the borrower's cell phone will not constitute a communication with a borrower at the borrower's place of employment.

(8) For the purposes of this section, "week" means a series of seven consecutive days beginning on a Sunday.

**NEW SECTION. Sec. 33. LOAN FREQUENCY**

**LIMITATIONS.** (1) No licensee may extend to or have open with a borrower a small consumer installment loan at any time when that borrower has another small consumer installment loan with an outstanding balance with the licensee or another licensee unless the unpaid loaned amount of any and all small consumer installment loans to a borrower at any time does not exceed seven hundred dollars.

(2) A borrower is prohibited from receiving more than eight small consumer installment loans from all licensees in any twelve-month period. A licensee is prohibited from making a small consumer installment loan to a borrower if making that small consumer installment loan would result in a borrower receiving more than eight small consumer installment loans from all licensees in any twelve-month period.

(3) A licensee is prohibited from extending a small consumer installment loan to a borrower who:

(a) Is in default on another small consumer installment loan until after that loan is paid in full or two years have passed from the origination date of the small consumer installment loan, whichever occurs first; or

(b) Is in a repayment plan for a small consumer installment loan with another licensee.

(4) A licensee is prohibited from extending a small consumer installment loan at any time to a borrower who:

(a) Has an unpaid small loan made by a licensee under chapter 31.45 RCW; or

(b) Is in an installment plan under RCW 31.45.088.

(5) The director has broad rule-making authority to adopt and implement a database system to carry out this section. This includes, but is not limited to, taking the steps necessary to contract a database vendor, and set licensee fees to operate and administer the database system.

(6) The information in the database described in this section is exempt from public disclosure under chapter 42.56 RCW.

**NEW SECTION. Sec. 34. MILITARY BORROWERS.** (1) A licensee is prohibited from extending a small consumer installment loan to any military borrower. In determining if a borrower is a military borrower and is ineligible to obtain a small consumer installment loan, a licensee may rely upon a statement provided by a borrower on a form prescribed by rule by the director. The form must apply standards to all military borrowers that are similar to the covered borrower identification statement standards of 32 C.F.R. Sec. 232.5(a)(1).

(2) The director must adopt rules to implement this section.

**NEW SECTION. Sec. 35. REPAYMENT PLAN.** (1) If a small consumer installment loan licensee attempts to collect the outstanding balance on a small consumer installment loan in default by commencing any civil action, the small consumer installment loan licensee shall first offer the borrower an opportunity to enter into a repayment plan. The small consumer installment loan licensee:

(a) Is required to make the repayment plan offer available to the borrower for a period of at least fifteen days after the date of the offer; and

(b) Is not required to make such an offer more than once for each loan.

(2) The repayment plan offer must:

(a) Be in writing and sent by electronic mail to an electronic mail address provided by the borrower to the licensee, or by United States mail, return receipt requested, to the borrower's mailing address provided by the borrower to the licensee;

(b) State the date by which the borrower must act to enter into a repayment plan;

(c) Briefly explain the procedures the borrower must follow to enter into a repayment plan;

(d) If the licensee requires the borrower to make an initial payment to enter into a repayment plan, briefly explain the requirement and state the amount of the initial payment and the date the initial payment must be made;

(e) State that the borrower has the opportunity to enter into a repayment plan with a term of at least one hundred twenty days after the date the repayment plan is entered into; and

(f) Include the following amounts:

(i) The initial payment due; and

(ii) The total amount due if the borrower enters into a repayment plan.

(3) Under the terms of any repayment plan pursuant to this section:

(a) The borrower must enter into the repayment plan not later than fifteen days after the date of the repayment plan offer, unless the licensee allows a longer period;

(b) The licensee must allow the period for repayment to extend at least one hundred twenty days after the date of the repayment plan, unless the borrower agrees to a shorter term; and

(c) The licensee may require the borrower to make an initial payment of not more than twenty percent of the total amount due under the terms of the repayment plan.

(4) If the licensee and borrower enter into a repayment plan pursuant to this section, the licensee shall honor the terms of the repayment plan, and the licensee shall not:

(a) Except as otherwise provided by this subchapter, charge any other amount to a borrower, including, without limitation, any amount or charge payable directly or indirectly by the borrower and imposed directly or indirectly by the licensee as an incident to or as a condition of entering into a repayment plan, other than the fees charged pursuant to the original loan agreement;

(b) Accept any collateral from the borrower to enter into the repayment plan;

(c) Sell to the borrower any insurance or require the borrower to purchase insurance or any other goods or services to enter into the repayment plan; and

(d) Attempt to collect an amount that is greater than the amount owed under the terms of the repayment plan.

(5) If the licensee and borrower enter into a repayment plan pursuant to this section, the licensee shall:

(a) Prepare a written agreement establishing the repayment plan; and

(b) Give the borrower a copy of the written repayment agreement. The written repayment agreement must:

(i) Be signed by the licensee and borrower; and

(ii) Contain all of the terms of the repayment plan, including, without limitation, the total amount due under the terms of the repayment plan.

(6) If the borrower defaults on the repayment plan, the licensee may, without any further notice to the borrower, commence any civil action and/or pursue any remedy as otherwise authorized by law.

**NEW SECTION. Sec. 36. RESTRICTION ON TRANSFER.** No licensee may pledge, negotiate, sell, or assign a small consumer installment loan, except to another licensee or to a bank, savings bank, trust company, savings and loan or building and loan association, or credit union organized under the laws of Washington or the laws of the United States.

**NEW SECTION. Sec. 37. PROHIBITED ACTS.** (1) It is a violation of this subchapter for a licensee, its officers, directors, employees, or independent contractors, or any other person subject to this subchapter to:

(a) Fail to make disclosures to loan applicants as required by any applicable state or federal law;

(b) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead any borrower, to defraud or mislead any lender, or to defraud or mislead any person;

(c) Directly or indirectly engage in any unfair or deceptive practice toward any person;

(d) Directly or indirectly obtain property by fraud or misrepresentation;

(e) Make a small consumer installment loan to any person physically located in Washington through the use of the internet, facsimile, telephone, kiosk, or other means without first obtaining a license;

(f) Make, in any manner, any false or deceptive statement or representation with regard to the rates, points, or other financing terms or conditions for a small consumer installment loan or engage in bait and switch advertising;

(g) Make any false statement or knowingly and willfully make any omission of material fact in connection with any reports filed with the department of financial institutions by a licensee or in connection with any investigation conducted by the department of financial institutions;

(h) Advertise any rate of interest without conspicuously disclosing the annual percentage rate implied by that rate of interest or otherwise fail to comply with any requirement of the truth in lending act, or any other applicable state or federal statutes or regulations;

(i) Make small consumer installment loans from any unlicensed location;

(j) Fail to comply with all applicable state and federal statutes relating to the activities governed by this subchapter; or

(k) Fail to pay any other fee, assessment, or moneys due the department.

(2) In addition to any other penalties, any transaction in violation of subsection (1) of this section is uncollectible and unenforceable.

**NEW SECTION. Sec. 38. INTERNET LENDING.** (1) A licensee may advertise and accept applications for small consumer installment loans by any lawful medium including, but not limited to, the internet.

(2) Licensees are prohibited from advertising or making small consumer installment loans via the internet without first having obtained a license.

(3) A licensee advertising or accepting applications for small consumer installment loans on the internet must conspicuously display its unified business identifier number on every web site associated with such advertising or applications.

**NEW SECTION. Sec. 39. INVESTIGATION AND EXAMINATION FEES AND ANNUAL ASSESSMENT FEE REQUIRED—AMOUNTS DETERMINED BY RULE—FAILURE TO PAY—NOTICE REQUIREMENTS OF LICENSEE.** (1) Each applicant and licensee shall pay to the director an investigation and examination fee as established in rule and an annual assessment fee for the coming year in an amount determined by rule as necessary to cover the operation of the program. The annual assessment fee is due upon the annual assessment fee due date as established in rule. Nonpayment of the annual assessment fee may result in expiration of the license as provided in subsection (2) of this section. In establishing the fees, the director shall consider at least the volume of business, level of risk, and potential harm to the public related to each activity. The fees collected shall be deposited to the credit of the financial services regulation fund in accordance with RCW 43.320.110.

(2) If a licensee does not pay its annual assessment fee by the annual assessment fee due date as specified in rule, the director or the director's designee shall send the licensee a notice of expiration and assess the licensee a late fee not to exceed fifteen percent of the annual assessment fee as established in rule by the director. The licensee's payment of both the annual assessment fee and the late fee must arrive in the department of financial institutions' offices by 5:00 p.m. Pacific time on the tenth day after the annual assessment fee due date, unless the department of financial institutions is not open for business on that date, in which case the licensee's payment of both the annual assessment fee and the late fee must arrive in the department of financial institutions' offices by 5:00 p.m. Pacific time on the next occurring day that the department of financial institutions is open for business. If the payment of both the annual assessment fee and the late fee does not arrive prior to such time and date, then the expiration of the licensee's license is effective at 5:00 p.m. Pacific time on the thirtieth day after the assessment fee due date. The director or the director's designee may reinstate the license if, within fifteen days after the effective date of expiration, the licensee pays the annual assessment fee and the late fee.

(3) If a licensee intends to do business at a new location, to close an existing place of business, or to relocate an existing place of business, the licensee shall provide written notification of that intention to the director no less than thirty days before the proposed establishing, closing, or moving of a place of business.

**NEW SECTION. Sec. 40. LICENSEE—RECORDKEEPING.** Each licensee shall keep and maintain the business books, accounts, and records the director may require to fulfill the purposes of this subchapter. Every licensee shall preserve the books, accounts, and records as required in rule by the director for at least two years from the completion of the transaction. Records may be maintained on an electronic, magnetic, optical, or other storage media. However, the licensee must maintain the necessary technology to permit access to the records by the department of financial institutions for the period required under this subchapter.

**NEW SECTION. Sec. 41. EXAMINATION OR INVESTIGATION—DIRECTOR'S AUTHORITY—COSTS.** The director or the director's designee may at any time examine and

investigate the business and examine the books, accounts, records, and files, or other information, wherever located, of any licensee or person who the director has reason to believe is engaging in the business governed by this subchapter. For these purposes, the director or the director's designee may require the attendance of and examine under oath all persons whose testimony may be required about the business or the subject matter of the investigation. The director or the director's designee may require the production of original books, accounts, records, files, or other information, or may make copies of such original books, accounts, records, files, or other information. The director or the director's designee may issue a subpoena or subpoena duces tecum requiring attendance and testimony, or the production of the books, accounts, records, files, or other information. The director shall collect from the licensee the actual cost of the examination and investigation.

**NEW SECTION. Sec. 42. SUBPOENA AUTHORITY—APPLICATION—CONTENTS—NOTICE—FEES.** (1) The director or authorized assistants may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or the county where the subpoenaed documents, records, or evidence are located, or in Thurston county. The application must:

- (a) State that an order is sought under this section;
- (b) Adequately specify the documents, records, evidence, or testimony; and
- (c) Include a declaration made under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the director's authority and that the subpoenaed documents, records, evidence, or testimony are reasonably related to an investigation within the director's authority.

(2) When an application under this section is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the director to subpoena the documents, records, evidence, or testimony.

(3) The director or authorized assistants may seek approval and a court may issue an order under this section without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation. An application for court approval is subject to the fee and process set forth in RCW 36.18.012(3).

**NEW SECTION. Sec. 43. REPORT REQUIREMENTS—DISCLOSURE OF INFORMATION—RULES.** (1) Each licensee shall submit to the director, in a form approved by the director, a report containing financial statements covering the calendar year or, if the licensee has an established fiscal year, then for that fiscal year, within one hundred five days after the close of each calendar or fiscal year. The licensee shall also file additional relevant information as the director may require. Any information provided by a licensee in an annual report is exempt from disclosure under chapter 42.56 RCW, unless aggregated with information supplied by other licensees in a manner that the licensee's individual information is not identifiable. Any information provided by the licensee that allows identification of the licensee may only be used by the director for purposes reasonably related to the regulation of licensees to ensure compliance with this subchapter.

(2) The director shall adopt rules specifying the form and content of annual reports and may require additional reporting as is necessary for the director to ensure compliance with this subchapter.

(3) A licensee whose license has been suspended or revoked shall submit to the director, at the licensee's expense, within one hundred five days after the effective date of the suspension or revocation, a closing audit report containing audited financial

statements as of the effective date for the twelve months ending with the effective date.

(4) The director is authorized to enter into agreements or sharing arrangements regarding licensee reports, examination, or investigation information with other governmental agencies, the conference of state bank supervisors, the American association of residential mortgage regulators, the national association of consumer credit administrators, or other associations representing governmental agencies as established by rule, regulation, or order of the director.

**NEW SECTION. Sec. 44. DIRECTOR—BROAD ADMINISTRATIVE DISCRETION—RULE MAKING—ACTIONS IN SUPERIOR COURT.** The director has the power, and broad administrative discretion, to administer, liberally construe, and interpret this subchapter to facilitate the delivery of financial services to the citizens of this state by licensees subject to this subchapter, and to effectuate the legislature's goal to protect borrowers. The director shall adopt all rules necessary to administer this subchapter, to establish and set fees authorized by this subchapter, and to ensure complete and full disclosure by licensees of lending transactions governed by this subchapter.

**NEW SECTION. Sec. 45. VIOLATIONS OR UNSOUND FINANCIAL PRACTICES—STATEMENT OF CHARGES—HEARING—SANCTIONS—DIRECTOR'S AUTHORITY.** (1) The director may issue and serve upon a licensee or applicant, or any director, officer, sole proprietor, partner, or controlling person of a licensee or applicant, a statement of charges if, in the opinion of the director, any licensee or applicant, or any director, officer, sole proprietor, partner, or controlling person of a licensee or applicant:

- (a) Is engaging or has engaged in an unsafe or unsound financial practice in conducting a business governed by this subchapter;
- (b) Is violating or has violated this subchapter, including violations of:
  - (i) Any rules, orders, or subpoenas issued by the director under any act;
  - (ii) Any condition imposed in writing by the director in connection with the granting of any application or other request by the licensee; or
  - (iii) Any written agreement made with the director;
- (c) Obtains a license by means of fraud, misrepresentation, or concealment;
- (d) Provides false statements or omits material information on an application;
- (e) Knowingly or negligently omits material information during or in response to an examination or in connection with an investigation by the director;
- (f) Fails to pay a fee or assessment required by the director or any multistate licensing system prescribed by the director, or fails to maintain the required bond;
- (g) Commits a crime against the laws of any jurisdiction involving moral turpitude, financial misconduct, or dishonest dealings. For the purposes of this section, a certified copy of the final holding of any court, tribunal, agency, or administrative body of competent jurisdiction is conclusive evidence in any hearing under this subchapter;
- (h) Knowingly commits or is a party to any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme, or device whereby any other person relying upon the word, representation, or conduct acts to his or her injury or damage;
- (i) Wrongly converts any money or its equivalent of any other person to his or her own use or to the use of his or her principal;
- (j) Fails to disclose to the director any material information within his or her knowledge or fails to produce any document,

book, or record in his or her possession for inspection by the director upon lawful demand;

(k) Commits any act of fraudulent or dishonest dealing. For the purposes of this section, a certified copy of the final holding of any court, tribunal, agency, or administrative body of competent jurisdiction is conclusive evidence in any hearing under this subchapter;

(l) Commits an act or engages in conduct that demonstrates incompetence or untrustworthiness, or is a source of injury and loss to the public; or

(m) Violates any applicable state or federal law relating to the activities governed by this subchapter.

(2) The director may issue and serve upon a licensee or applicant, or any director, officer, sole proprietor, partner, or controlling person of the licensee or applicant, a statement of charges if the director has reasonable cause to believe that the licensee or applicant is about to do acts prohibited in subsection (1) of this section.

(3) The statement of charges must be issued under chapter 34.05 RCW. The director or the director's designee may impose the following sanctions against any licensee or applicant, or any directors, officers, sole proprietors, partners, controlling persons, or employees of a licensee or applicant:

(a) Deny, revoke, suspend, or condition a license;

(b) Order the licensee or person to cease and desist from practices that violate this subchapter;

(c) Impose a fine not to exceed one hundred dollars per day per violation of this subchapter;

(d) Order restitution or refunds, or both, to borrowers or other affected parties for violations of this subchapter or to take other affirmative action as necessary to comply with this subchapter; and

(e) Remove from office or ban from participation in the affairs of any licensee any director, officer, sole proprietor, partner, controlling person, or employee of a licensee.

(4) The proceedings to impose the sanctions described in subsection (3) of this section, including any hearing or appeal of the statement of charges, are governed by chapter 34.05 RCW.

(5) Unless the licensee or person personally appears at the hearing or is represented by a duly authorized representative, the licensee is deemed to have consented to the statement of charges and the sanctions imposed in the statement of charges.

(6) Except to the extent prohibited by another statute, the director may engage in informal settlement of complaints or enforcement actions including, but not limited to, payment to the department of financial institutions for purposes of financial literacy and education programs authorized under RCW 43.320.150.

**NEW SECTION. Sec. 46. VIOLATIONS OR UNSOUND PRACTICES—TEMPORARY CEASE AND DESIST ORDER—DIRECTOR'S AUTHORITY.** Whenever the director determines that the acts specified in section 45 of this act or their continuation is likely to cause insolvency or substantial injury to the public, the director may also issue a temporary cease and desist order requiring the licensee to cease and desist from the violation or practice. The order becomes effective upon service upon the licensee and remains effective unless set aside, limited, or suspended by a court under section 47 of this act pending the completion of the administrative proceedings under the notice and until the time the director dismisses the charges specified in the notice or until the effective date of a superior court injunction under section 47 of this act.

**NEW SECTION. Sec. 47. TEMPORARY CEASE AND DESIST ORDER—LICENSEE'S APPLICATION FOR INJUNCTION.** Within ten days after a licensee has been served with a temporary cease and desist order, the licensee may apply to the superior court in the county of its principal place of business

for an injunction setting aside, limiting, or suspending the order pending the completion of the administrative proceedings pursuant to the notice served under section 46 of this act. The superior court has jurisdiction to issue the injunction.

**NEW SECTION. Sec. 48. VIOLATION OF TEMPORARY CEASE AND DESIST ORDER—DIRECTOR'S APPLICATION FOR INJUNCTION.** In the case of a violation or threatened violation of a temporary cease and desist order issued under section 46 of this act, the director may apply to the superior court of the county of the principal place of business of the licensee for an injunction.

**NEW SECTION. Sec. 49. APPOINTMENT OF RECEIVER.** The director may petition the superior court for the appointment of a receiver to liquidate the affairs of the licensee.

**NEW SECTION. Sec. 50. VIOLATION—CONSUMER PROTECTION ACT—REMEDIES.** The legislature finds and declares that any violation of this subchapter substantially affects the public interest and is an unfair and deceptive act or practice and an unfair method of competition in the conduct of trade or commerce as set forth in RCW 19.86.020. Remedies available under chapter 19.86 RCW do not affect any other remedy the injured party may have.

**NEW SECTION. Sec. 51. ADJUSTMENT OF DOLLAR AMOUNTS.** The dollar amounts established in sections 26(2) and 33(1) of this act must, without discretion, be adjusted for inflation by the director on July 1, 2017, and on each July 1st thereafter, based upon upward changes in the consumer price index during that time period, and then rounded up to the nearest five dollars. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, for Washington state, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. If the bureau of labor and statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the adjustments for inflation in this section. The director must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

**NEW SECTION. Sec. 52. REPORT TO LEGISLATURE.** The director must collect and submit the following information to the legislature by December 1, 2017, for data collected during 2016:

- (1) The number of branches and total locations;
- (2) The number of loans made during 2016;
- (3) Loan volume;
- (4) Average loan amount;
- (5) Total fees charged, in total and by category of fee or other charge;
- (6) Average payment per month, in total and by category of fee or other charge;
- (7) Average income of borrower;
- (8) The number of military borrowers;
- (9) Borrower frequency;
- (10) The number of unique borrowers;
- (11) Average length of loan repayment;
- (12) The number of borrowers taking out the maximum loan amount;
- (13) The number of borrowers who went into default;
- (14) Average length of time a borrower has a loan before a borrower goes into default;
- (15) Any legislative recommendations by the director; and
- (16) Any other information that the director believes is relevant or useful.

**NEW SECTION. Sec. 53. SMALL CONSUMER INSTALLMENT LOANS—FINANCIAL LITERACY FUND.**

For each small consumer installment loan that is made, a licensee must remit one dollar to the department of financial institutions for the purpose of financial literacy and education programs authorized under RCW 43.320.150. The director shall adopt rules to implement this section.

**NEW SECTION. Sec. 54. DIRECTOR AUTHORIZED TO CHARGE FEES.** Effective January 1, 2016, the director shall establish, set, and adjust by rule the amount of all fees and charges authorized by this subchapter.

**NEW SECTION. Sec. 55. SHORT TITLE.** This subchapter may be known and cited as the small consumer installment loan act.

**NEW SECTION. Sec. 56.** Sections 1 through 16 of this act take effect July 1, 2016, or on and after the effective date of the final rules adopted by the director implementing this act, whichever is later provided the subchapter "small consumer installment loans" becomes law as it is enacted by the legislature.

**NEW SECTION. Sec. 57.** (1) Sections 20 through 55 of this act take effect July 1, 2016.

(2) The director of financial institutions or the director's designee shall take the actions necessary to ensure sections 20 through 55 of this act are implemented on July 1, 2016.

(3) The director of commerce or the director's designee shall take the actions necessary to ensure sections 56 through 58 of this act are implemented on July 1, 2016.

**NEW SECTION. Sec. 58.** Sections 20 through 51, 53 through 55, and 56 of this act are each added to chapter 31.45 RCW and codified with the subchapter heading of "small consumer installment loans."

Correct the title.

Signed by Representatives Kirby, Chair; Vick, Ranking Minority Member; Blake; Hurst; Kochmar; McCabe and Santos.

MINORITY recommendation: Do not pass. Signed by Representative Ryu, Vice Chair.

MINORITY recommendation: Without recommendation. Signed by Representative Stanford.

Referred to Committee on General Government & Information Technology.

There being no objection, the bills listed on the day's committee reports under the fifth order of business were referred to the committees so designated.

**MESSAGE FROM THE SENATE**

March 31, 2015

MR. SPEAKER:

The President has signed:

SUBSTITUTE HOUSE BILL NO. 1559  
SUBSTITUTE HOUSE BILL NO. 1610

and the same are herewith transmitted.

Hunter G. Goodman, Secretary

There being no objection, the House advanced to the eleventh order of business.

There being no objection, the House adjourned until 9:55 a.m., April 1, 2015, the 80th Day of the Regular Session.

FRANK CHOPP, Speaker

BARBARA BAKER, Chief Clerk

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