

FIFTY SEVENTH DAY

---

AFTERNOON SESSION

---

Senate Chamber, Olympia, Monday, March 10, 2014

The Senate was called to order at 1:00 p.m. by the President Pro Tempore. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Hargrove and Mullet.

The Sergeant at Arms Color Guard consisting of U. S. Navy sailors assigned to Navy Region Northwest, Hospital Corpsman 3<sup>rd</sup> Class Stephen Frost; Hospitalman Nicholas Lotito; Hospitalman Jacob Ward; Logistics Specialist Seaman Royrekus Roberts and Hospitalman Domenic Nasuta presented the Colors.

The National Anthem was performed by Musician 3<sup>rd</sup> Class Sarah Reasner, vocalist with Navy Band Northwest, Silverdale.

Captain John Swenson, U. S. Navy, Chaplain, Navy Northwest, offered the prayer.

MOTION

On motion of Senator Fain the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Fain, Senate Rule 20 was suspended for the remainder of the day to allow consideration of additional floor resolutions.

EDITOR'S NOTE: Senate Rule 20 limits consideration of floor resolutions not essential to the operation of the Senate to one per day during regular daily sessions.

MOTION

On motion of Senator Fain, the Senate advanced to the eighth order of business.

MOTION

Senator Bailey moved adoption of the following resolution:

SENATE RESOLUTION  
8702

By Senators Bailey, Angel, O'Ban, Pearson, Padden, Hewitt, Hill, Eide, Kohl-Welles, Frockt, Rolfes, Dammeier, Braun, Fain, Benton, Tom, Parlette, Schoesler, Litzow, Roach, Billig, Brown, Holmquist Newbry, Fraser, Ranker, Hobbs, Hasegawa, Conway, Darneille, Keiser, Becker, Kline, Hargrove, Baumgartner, King, Dansel, Cleveland, McCoy, Pedersen, Ericksen, Mullet, Liias, Sheldon, and Rivers

WHEREAS, Washington State has both a strong maritime heritage and a contemporary reliance on the sea; and

WHEREAS, The United States Navy is the military service that secures sea lanes, allowing free flow of commerce to and from our state, and the service whose power projection promotes stability for our friends and deters aggression from our foes; and

WHEREAS, The Navy has been a presence in Puget Sound since before Washington Statehood; and

WHEREAS, United States Navy installations provide careers and economic stability to tens of thousands of Washington State citizens; and

WHEREAS, Washington Navy bases support two aircraft carriers, more than 10 surface ships, 13 submarines, and 115 aircraft; and

WHEREAS, Washington State and the Pacific Northwest are home to 21,000 active duty Navy service members, 16,000 Navy civilian employees, 6,000 drilling Naval reservists, 40,000 Navy family members, and 35,000 Navy retirees; and

WHEREAS, Washington State based Navy personnel and assets regularly deploy around the world to deter aggression, relieve the distressed, and aid America's friends and allies; and

WHEREAS, Washington State Navy bases are consistently recognized for their leadership and innovation in environmental stewardship, community engagement, and quality of life; and

WHEREAS, Navy personnel routinely provide homeland security, disaster assistance, and rescue services to the citizens of Washington State;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor the Navy and bring warm greetings and many thanks to each and every person related to the Navy's work and mission in our state.

Senators Bailey and Ranker spoke in favor of adoption of the resolution.

INTRODUCTION OF SPECIAL GUESTS

The President Pro Tempore welcomed and introduced U. S. Rear Admiral Babette Bolivar, Commander, Navy Region Northwest and Rear Admiral Michael Smith, Commander, Carrier Strike Group Three USS Johns Stennis Strike Group, Bangor, who were present at the rostrum.

With permission of the Senate, business was suspended to allow Rear Admiral Babette Bolivar, Commander, Navy Region Northwest, to address the Senate.

REMARKS BY REAR ADMIRAL BABETTE BOLIVAR

Rear Admiral Babette Boliva: "Thank you. Appreciate the time that you've taken out of your schedule to honor us here. I can tell you here that on behalf of the entire Navy and Region Northwest we are absolutely honored to be in your presence. Being able to tie into this process and come out here at least once a year so that your able to see what we do and meet the true professionals of our Navy We're certainly honored to be here to do that. I know our time is short but I just wanted to thank each and every one of you for your support to the Navy and our Region. We have a lot of, we have sixteen thousand civilian employees in this region and as we said in the proclamation we have twenty one thousand active duty members. I can tell you that being the third largest fleet concentration area in the world that and we can truly feel your support. Thank you very much for it. Thank you so much for having us today."

INTRODUCTION OF SPECIAL GUESTS

The President Pro Tempore welcomed and introduced U. S. Navy Officers and sailors assigned to Commander, Navy Region Northwest based in Silverdale who were present in the gallery and recognized by the Senate.

Senators Dammeier, Angel and Rolfes spoke in favor of adoption of the resolution

The President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8702.

The motion by Senator Bailey carried and the resolution was adopted by voice vote.

#### INTRODUCTION OF SPECIAL GUESTS

The President Pro Tempore welcomed and introduced Miss Janae Calaway, Miss Tri-Cities 2013 and Miss Reagan Rebstock, Miss Tri-Cities Outstanding Teen 2013, who were present in the gallery and recognized by the Senate.

#### MOTION

Senator Dammeier moved adoption of the following resolution:

#### SENATE RESOLUTION 8703

By Senators Dammeier, Angel, Conway, Darneille, Roach, O'Ban, and Becker

WHEREAS, The annual Daffodil Festival is a favored tradition for the people of Pierce County and the Northwest; and

WHEREAS, 2014 marks the 81st anniversary of the Daffodil Festival, and the theme of this year's festival is "Ready, Set, Grow!"; and

WHEREAS, The mission of the Daffodil Festival is to focus national and regional attention on our local area as a great place to live and visit, to give the citizens of Pierce County a civic endeavor and to foster civic pride, to give young people and organizations in the local area an opportunity to display their abilities and talents, and to give voice to the citizens' enthusiasm in parades, pageantry, and events; and

WHEREAS, The Daffodil Festival began in 1926 as a modest garden party in Sumner and grew steadily each year until 1934, when the daffodil flowers, which previously had been largely discarded in favor of daffodil bulbs, were used to decorate cars and bicycles for a short parade through Tacoma; and

WHEREAS, The Daffodil Festival will be celebrating its 81st year during the 2014 festival season with the Daffodil Parade being the highlight of the Festival week. The parade travels through the four cities of Tacoma, Puyallup, Sumner, and Orting and consists of over 150 entries, including floats, bands, marching, and mounted units. Floats are decorated with thousands of fresh-cut daffodils, and the parade is a bridge that links one generation to another; and

WHEREAS, When the Daffodil Parade is over, the Royalty and their float will travel to over two dozen out-of-town parades to represent and celebrate Pierce County; and

WHEREAS, This year's Daffodil Festival Royalty includes Petrice Bokako, Clover Park; Kaetlynn Brown, Sumner; Sydney Brown, Rogers; Megan Chabot, Bethel; Emily Cook, Orting; Caiti Driscoll, Curtis; Delaney Fry, Stadium; Stephanie Jackson-Buena, Chief Leschi; Ji Larson, Lincoln; Lydia Mangan, Henry Foss; Kayla McElligott, Fife; Johnl Milhans, Lakes; Marissa Modestowicz, Emerald Ridge; Casey Park, Graham-Kapowsin; Sidney Riess, White River; Emily Saito, Eatonville; Sarah Schroeder, Wilson; Andrea Seaton, Cascade Christian; Kiasa Sims, Emerald Ridge; Connie Smith, Spanaway Lake; Kasey Temple, Franklin Pierce; Nina Thach, Mt. Tahoma; Haley Theriault, Bonney Lake; Kim White, Puyallup; and KayLee Wiest, Washington;

NOW, THEREFORE, BE IT RESOLVED, That the Senate recognize and honor the many contributions made to our state by the Daffodil Festival and its organizers for the past eighty-one years; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the 2014 Daffodil Festival Officers and to the members of the Festival Royalty.

Senators Dammeier, Conway and Baumgartner spoke in favor of adoption of the resolution.

The President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8703.

The motion by Senator Dammeier carried and the resolution was adopted by voice vote.

#### INTRODUCTION OF SPECIAL GUESTS

The President Pro Tempore welcomed and introduced Miss Marissa Modestowicz, Daffodil Festival Queen 2014 of Emerald Ridge High School who was seated at the rostrum.

#### INTRODUCTION OF SPECIAL GUESTS

The President Pro Tempore welcomed and introduced members of the Daffodil Festival Royal Court, Petrice Bokako, Clover Park High School; Sydney Brown, Rogers High School; Kaetlynn Brown, Sumner High School; Megan Chabot, Bethel High School; Emily Cook, Orting High School; Caiti Driscoll, Curtis High School; Delaney Fry, Stadium High School; Stephanie Jackson-Buena, Chief Leschi School; Ji Larson, Lincoln High School; Lydia Mangan, Henry Foss High School; Kayla McElligott, Fife High School; John-El Milhans, Lakes High School; Casey Park, (not present); Sidney Riess, White River High School; Emily Saito, Eatonville High School; Sarah Schroeder, Wilson High School; Andrea Seaton, Cascade Christian School; Kiasa Sims, Emerald Ridge High School; Connie Smith, Spanaway Lake High School; Kasey Temple, Franklin Pierce High School; Nina Thach, Mt. Tahoma High School; Haley Theriault, Bonney Lake High School and Kim White, Puyallup High School who were seated in the gallery.

With permission of the Senate, business was suspended to allow Queen Marissa Modestowicz to address the Senate.

#### REMARKS BY QUEEN MARISSA MODESTOWICZ

Miss Marissa Modestowicz: "Thank you so much for having us here. It's an honor to be here and see all that you do. As Ambassadors of Pierce County, we have over two hundred fifty appearances over the course of one year. On Thursday we will be at the Boys & Girls Club interacting with the kids. On Saturday, we'll be reading at all twenty six libraries of Pierce County - to the little kids of course! And on April 5 we have the Grand Floral Parade. So if you are in Tacoma, Puyallup, Sumner or Orting, we would love to see you there. Thank you again."

#### MOTION

At 1:42 p.m., on motion of Senator Fain, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 3:39 p.m. by the President Pro Tempore, Senator Sheldon presiding.

#### MOTION

FIFTY SEVENTH DAY, MARCH 10, 2014

2014 REGULAR SESSION

On motion of Senator Fain, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

March 5, 2014

MESSAGE FROM THE HOUSE

March 10, 2014

MR. PRESIDENT:

The House concurred in the Senate amendment to :

HOUSE BILL NO. 2555 and passed the bill as amended by the Senate.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Fain, the Senate advanced to the seventh order of business.

THIRD READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Angel moved that Stephen L Warner, Gubernatorial Appointment No. 9329, be confirmed as a member of the Board of Trustees, Olympic Community College District No. 3.

Senator Angel spoke in favor of the motion.

APPOINTMENT OF STEPHEN L WARNER

The President Pro Tempore declared the question before the Senate to be the confirmation of Stephen L Warner, Gubernatorial Appointment No. 9329, as a member of the Board of Trustees, Olympic Community College District No. 3.

The Secretary called the roll on the confirmation of Stephen L Warner, Gubernatorial Appointment No. 9329, as a member of the Board of Trustees, Olympic Community College District No. 3 and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 2; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Absent: Senators Hargrove and Mullet

Stephen L Warner, Gubernatorial Appointment No. 9329, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Olympic Community College District No. 3.

MOTION

On motion of Senator Billig, Senators Hargrove, Mullet and Rolfes were excused.

MOTION

On motion of Senator Fain, the Senate reverted to the fourth order of business.

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6041 with the following amendment(s): 6041-S.E AMH ENGR H4433.E

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 77.08.010 and 2012 c 176 s 4 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this title or rules adopted under this title unless the context clearly requires otherwise.

(1) "Anadromous game fish buyer" means a person who purchases or sells steelhead trout and other anadromous game fish harvested by Indian fishers lawfully exercising fishing rights reserved by federal statute, treaty, or executive order, under conditions prescribed by rule of the director.

(2) "Angling gear" means a line attached to a rod and reel capable of being held in hand while landing the fish or a hand-held line operated without rod or reel.

(3) "Aquatic invasive species" means any invasive, prohibited, regulated, unregulated, or unlisted aquatic animal or plant species as defined under subsections (4), (34), (49), (53), ~~((70))~~ (73), and ~~((74))~~ (74) of this section, aquatic noxious weeds as defined under RCW 17.26.020(5)(c), and aquatic nuisance species as defined under RCW 77.60.130(1).

(4) "Aquatic plant species" means an emergent, submersed, partially submersed, free-floating, or floating-leaving plant species that grows in or near a body of water or wetland.

(5) "Bag limit" means the maximum number of game animals, game birds, or game fish which may be taken, caught, killed, or possessed by a person, as specified by rule of the commission for a particular period of time, or as to size, sex, or species.

(6) "Building" means a private domicile, garage, barn, or public or commercial building.

(7) "Closed area" means a place where the hunting of some or all species of wild animals or wild birds is prohibited.

(8) "Closed season" means all times, manners of taking, and places or waters other than those established by rule of the commission as an open season. "Closed season" also means all hunting, fishing, taking, or possession of game animals, game birds, game fish, food fish, or shellfish that do not conform to the special restrictions or physical descriptions established by rule of the commission as an open season or that have not otherwise been deemed legal to hunt, fish, take, harvest, or possess by rule of the commission as an open season.

(9) "Closed waters" means all or part of a lake, river, stream, or other body of water, where fishing or harvesting is prohibited.

(10) "Commercial" means related to or connected with buying, selling, or bartering.

(11) "Commission" means the state fish and wildlife commission.

(12) "Concurrent waters of the Columbia river" means those waters of the Columbia river that coincide with the Washington-Oregon state boundary.

(13) "Contraband" means any property that is unlawful to produce or possess.

(14) "Deleterious exotic wildlife" means species of the animal kingdom not native to Washington and designated as dangerous to the environment or wildlife of the state.

(15) "Department" means the department of fish and wildlife.

(16) "Director" means the director of fish and wildlife.

(17) "Endangered species" means wildlife designated by the commission as seriously threatened with extinction.

(18) "Ex officio fish and wildlife officer" means:

(a) A commissioned officer of a municipal, county, or state agency having as its primary function the enforcement of criminal laws in general, while the officer is acting in the respective jurisdiction of that agency;

(b) An officer or special agent commissioned by one of the following: The national marine fisheries service; the Washington state parks and recreation commission; the United States fish and wildlife service; the Washington state department of natural resources; the United States forest service; or the United States parks service, if the agent or officer is in the respective jurisdiction of the primary commissioning agency and is acting under a mutual law enforcement assistance agreement between the department and the primary commissioning agency;

(c) A commissioned fish and wildlife peace officer from another state who meets the training standards set by the Washington state criminal justice training commission pursuant to RCW 10.93.090, 43.101.080, and 43.101.200, and who is acting under a mutual law enforcement assistance agreement between the department and the primary commissioning agency; or

(d) A Washington state tribal police officer who successfully completes the requirements set forth under RCW 43.101.157, is employed by a tribal nation that has complied with RCW 10.92.020(2) (a) and (b), and is acting under a mutual law enforcement assistance agreement between the department and the tribal government.

(19) "Fish" includes all species classified as game fish or food fish by statute or rule, as well as all fin fish not currently classified as food fish or game fish if such species exist in state waters. The term "fish" includes all stages of development and the bodily parts of fish species.

(20) "Fish and wildlife officer" means a person appointed and commissioned by the director, with authority to enforce this title and rules adopted pursuant to this title, and other statutes as prescribed by the legislature. Fish and wildlife officer includes a person commissioned before June 11, 1998, as a wildlife agent or a fisheries patrol officer.

(21) "Fish broker" means a person whose business it is to bring a seller of fish and shellfish and a purchaser of those fish and shellfish together.

(22) "Fish buyer" means ~~((a person engaged by a wholesale fish dealer to purchase food fish or shellfish from a licensed commercial fisher))~~;

(a) A wholesale fish dealer or a retail seller who directly receives fish or shellfish from a commercial fisher or receives fish or shellfish in interstate or foreign commerce; or

(b) A person engaged by a wholesale fish dealer who receives fish or shellfish from a commercial fisher.

(23) "Fishery" means the taking of one or more particular species of fish or shellfish with particular gear in a particular geographical area.

(24) "Food, food waste, or other substance" includes human and pet food or other waste or garbage that could attract large wild carnivores.

(25) "Freshwater" means all waters not defined as saltwater including, but not limited to, rivers upstream of the river mouth, lakes, ponds, and reservoirs.

(26) "Fur-bearing animals" means game animals that shall not be trapped except as authorized by the commission.

(27) "Fur dealer" means a person who purchases, receives, or resells raw furs for commercial purposes.

(28) "Game animals" means wild animals that shall not be hunted except as authorized by the commission.

(29) "Game birds" means wild birds that shall not be hunted except as authorized by the commission.

(30) "Game farm" means property on which wildlife is held, confined, propagated, hatched, fed, or otherwise raised for commercial purposes, trade, or gift. The term "game farm" does not include publicly owned facilities.

(31) "Game reserve" means a closed area where hunting for all wild animals and wild birds is prohibited.

(32) "Illegal items" means those items unlawful to be possessed.

(33)(a) "Intentionally feed, attempt to feed, or attract" means to purposefully or knowingly provide, leave, or place in, on, or about any land or building any food, food waste, or other substance that attracts or could attract large wild carnivores to that land or building.

(b) "Intentionally feed, attempt to feed, or attract" does not include keeping food, food waste, or other substance in an enclosed garbage receptacle or other enclosed container unless specifically directed by a fish and wildlife officer or animal control authority to secure the receptacle or container in another manner.

(34) "Invasive species" means a plant species or a nonnative animal species that either:

(a) Causes or may cause displacement of, or otherwise threatens, native species in their natural communities;

(b) Threatens or may threaten natural resources or their use in the state;

(c) Causes or may cause economic damage to commercial or recreational activities that are dependent upon state waters; or

(d) Threatens or harms human health.

(35) "Large wild carnivore" includes wild bear, cougar, and wolf.

(36) "License year" means the period of time for which a recreational license is valid. The license year begins April 1st, and ends March 31st.

(37) "Limited-entry license" means a license subject to a license limitation program established in chapter 77.70 RCW.

(38) "Money" means all currency, script, personal checks, money orders, or other negotiable instruments.

(39) "Natural person" means a human being.

(40)(a) "Negligently feed, attempt to feed, or attract" means to provide, leave, or place in, on, or about any land or building any food, food waste, or other substance that attracts or could attract large wild carnivores to that land or building, without the awareness that a reasonable person in the same situation would have with regard to the likelihood that the food, food waste, or other substance could attract large wild carnivores to the land or building.

(b) "Negligently feed, attempt to feed, or attract" does not include keeping food, food waste, or other substance in an enclosed garbage receptacle or other enclosed container unless specifically directed by a fish and wildlife officer or animal control authority to secure the receptacle or container in another manner.

(41) "Nonresident" means a person who has not fulfilled the qualifications of a resident.

(42) "Offshore waters" means marine waters of the Pacific Ocean outside the territorial boundaries of the state, including the marine waters of other states and countries.

(43) "Open season" means those times, manners of taking, and places or waters established by rule of the commission for the lawful hunting, fishing, taking, or possession of game animals, game birds, game fish, food fish, or shellfish that conform to the special restrictions or physical descriptions established by rule of the commission or that have otherwise been deemed legal to hunt, fish, take, ~~((harvest))~~ or possess by rule of the commission. "Open season" includes the first and last days of the established time.

(44) "Owner" means the person in whom is vested the ownership dominion, or title of the property.

(45) "Person" means and includes an individual; a corporation; a public or private entity or organization; a local, state, or federal agency; all business organizations, including corporations and partnerships; or a group of two or more individuals acting with a

FIFTY SEVENTH DAY, MARCH 10, 2014

common purpose whether acting in an individual, representative, or official capacity.

(46) "Personal property" or "property" includes both corporeal and incorporeal personal property and includes, among other property, contraband and money.

(47) "Personal use" means for the private use of the individual taking the fish or shellfish and not for sale or barter.

(48) "Predatory birds" means wild birds that may be hunted throughout the year as authorized by the commission.

(49) "Prohibited aquatic animal species" means an invasive species of the animal kingdom that has been classified as a prohibited aquatic animal species by the commission.

(50) "Protected wildlife" means wildlife designated by the commission that shall not be hunted or fished.

(51) "Raffle" means an activity in which tickets bearing an individual number are sold for not more than twenty-five dollars each and in which a permit or permits are awarded to hunt or for access to hunt big game animals or wild turkeys on the basis of a drawing from the tickets by the person or persons conducting the raffle.

(52) "Recreational and commercial watercraft" includes the boat, as well as equipment used to transport the boat, and any auxiliary equipment such as attached or detached outboard motors.

(53) "Regulated aquatic animal species" means a potentially invasive species of the animal kingdom that has been classified as a regulated aquatic animal species by the commission.

(54) "Resident" has the same meaning as defined in RCW 77.08.075.

(55) "Retail-eligible species" means commercially harvested salmon, crab, and sturgeon.

(56) "Saltwater" means those marine waters seaward of river mouths.

(57) "Seaweed" means marine aquatic plant species that are dependent upon the marine aquatic or tidal environment, and exist in either an attached or free floating form, and includes but is not limited to marine aquatic plants in the classes Chlorophyta, Phaeophyta, and Rhodophyta.

(58) "Senior" means a person seventy years old or older.

(59) "Shark fin" means a raw, dried, or otherwise processed detached fin or tail of a shark.

(60)(a) "Shark fin derivative product" means any product intended for use by humans or animals that is derived in whole or in part from shark fins or shark fin cartilage.

(b) "Shark fin derivative product" does not include a drug approved by the United States food and drug administration and available by prescription only or medical device or vaccine approved by the United States food and drug administration.

(61) "Shellfish" means those species of marine and freshwater invertebrates that have been classified and that shall not be taken or possessed except as authorized by rule of the commission. The term "shellfish" includes all stages of development and the bodily parts of shellfish species.

(62) "State waters" means all marine waters and fresh waters within ordinary high water lines and within the territorial boundaries of the state.

(63) "Taxidermist" means a person who, for commercial purposes, creates lifelike representations of fish and wildlife using fish and wildlife parts and various supporting structures.

(64) "To fish((s))" (~~"to harvest," and "to take,")~~) and ~~((their))~~ its derivatives means an effort to kill, injure, harass, harvest, or ~~((catch))~~ capture a fish or shellfish.

(65) "To hunt" and its derivatives means an effort to kill, injure, harass, harvest, or capture(~~(, or harass))~~) a wild animal or wild bird.

(66) "To process" and its derivatives mean preparing or preserving fish, wildlife, or shellfish.

2014 REGULAR SESSION

(67) "To take" and its derivatives means to kill, injure, harvest, or capture a fish, shellfish, wild animal, bird, or seaweed.

(68) "To trap" and its derivatives means a method of hunting using devices to capture wild animals or wild birds.

~~((68))~~ (69) "To waste" or "to be wasted" means to allow any edible portion of any game bird, food fish, game fish, shellfish, or big game animal other than cougar to be rendered unfit for human consumption, or to fail to retrieve edible portions of such a game bird, food fish, game fish, shellfish, or big game animal other than cougar from the field. For purposes of this chapter, edible portions of game birds must include, at a minimum, the breast meat of those birds. Entrails, including the heart and liver, of any wildlife species are not considered edible.

(70) "Trafficking" means offering, attempting to engage, or engaging in sale, barter, or purchase of fish, shellfish, wildlife, or deleterious exotic wildlife.

~~((69))~~ (71) "Unclaimed" means that no owner of the property has been identified or has requested, in writing, the release of the property to themselves nor has the owner of the property designated an individual to receive the property or paid the required postage to effect delivery of the property.

~~((70))~~ (72) "Unclassified wildlife" means wildlife existing in Washington in a wild state that have not been classified as big game, game animals, game birds, predatory birds, protected wildlife, endangered wildlife, or deleterious exotic wildlife.

(73) "Unlisted aquatic animal species" means a nonnative animal species that has not been classified as a prohibited aquatic animal species, a regulated aquatic animal species, or an unregulated aquatic animal species by the commission.

~~((71))~~ (74) "Unregulated aquatic animal species" means a nonnative animal species that has been classified as an unregulated aquatic animal species by the commission.

~~((72))~~ (75) "Wholesale fish dealer" means a person who, acting for commercial purposes, takes possession or ownership of fish or shellfish and sells, barter, or exchanges or attempts to sell, barter, or exchange fish or shellfish that have been landed into the state of Washington or entered the state of Washington in interstate or foreign commerce.

~~((73))~~ (76) "Wild animals" means those species of the class Mammalia whose members exist in Washington in a wild state. The term "wild animal" does not include feral domestic mammals or old world rats and mice of the family Muridae of the order Rodentia.

~~((74))~~ (77) "Wild birds" means those species of the class Aves whose members exist in Washington in a wild state.

~~((75))~~ (78) "Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. This includes but is not limited to mammals, birds, reptiles, amphibians, fish, and invertebrates. The term "wildlife" does not include feral domestic mammals, old world rats and mice of the family Muridae of the order Rodentia, or those fish, shellfish, and marine invertebrates classified as food fish or shellfish by the director. The term "wildlife" includes all stages of development and the bodily parts of wildlife members.

~~((76))~~ (79) "Wildlife meat cutter" means a person who packs, cuts, processes, or stores wildlife for consumption for another for commercial purposes.

~~((77))~~ (80) "Youth" means a person fifteen years old for fishing and under sixteen years old for hunting.

**Sec. 2.** RCW 77.08.075 and 2012 c 176 s 5 are each amended to read as follows:

For the purposes of this title or rules adopted under this title, "resident" means:

(1) A natural person who has maintained a permanent place of abode within the state for at least ninety days immediately preceding an application for a license, has established by formal evidence an

intent to continue residing within the state, is not licensed to hunt or fish as a resident in another state or country, and is not receiving resident benefits of another state or country.

(a) For purposes of this section, "permanent place of abode" means a residence in this state that a person maintains for personal use.

(b) A natural person can demonstrate that the person has maintained a permanent place of abode in Washington by showing that the person:

(i) Uses a Washington state address for federal income tax or state tax purposes;

(ii) Designates this state as the person's residence for obtaining eligibility to hold a public office or for judicial actions;

(iii) Is a registered voter in the state of Washington; or

(iv) Is a custodial parent with a child attending prekindergarten, kindergarten, elementary school, middle school, or high school in this state.

(c) A natural person can demonstrate the intent to continue residing within the state by showing that he or she:

(i) Has a valid Washington state driver's license; or

(ii) Has a valid Washington state identification card, if the person is not eligible for a Washington state driver's license; and

(iii) Has registered the person's vehicle or vehicles in Washington state;

(2) The spouse of a member of the United States armed forces if the member qualifies as a resident under subsection (1), (3), or (4) of this section, or a natural person age eighteen or younger who does not qualify as a resident under subsection (1) of this section, but who has a parent or legal guardian who qualifies as a resident under subsection (1), (3), or (4) of this section;

(3) A member of the United States armed forces temporarily stationed in Washington state on predeployment orders. A copy of the person's military orders is required to meet this condition;

(4) ~~((A))~~ An active duty, nonretired member of the United States armed forces who is permanently stationed in Washington ~~((state))~~ or who designates Washington ~~((state))~~ on ~~((their))~~ his or her military "state of legal residence certificate" or enlistment or re-enlistment documents. A copy of the person's "state of legal residence certificate" or enlistment or re-enlistment documents is required to meet the conditions of this subsection.

**Sec. 3.** RCW 77.15.080 and 2012 c 176 s 9 are each amended to read as follows:

(1) Based upon articulable facts that a person is engaged in fishing, harvesting, or hunting activities, fish and wildlife officers and ex officio fish and wildlife officers have the authority to temporarily stop the person and check for valid licenses, tags, permits, stamps, or catch record cards, and to inspect all fish, shellfish, seaweed, and wildlife in possession as well as the equipment being used to ensure compliance with the requirements of this title. Fish and wildlife officers and ex officio fish and wildlife officers also may request that the person write his or her signature for comparison with the signature on his or her fishing, harvesting, or hunting license. Failure to comply with the request is prima facie evidence that the person is not the person named on the license. Fish and wildlife officers and ex officio fish and wildlife officers may require the person, if age sixteen or older, to exhibit a driver's license or other photo identification.

(2) Based upon articulable facts that a person is transporting a prohibited aquatic animal species or any aquatic plant, fish and wildlife officers and ex officio fish and wildlife officers have the authority to temporarily stop the person and inspect the watercraft to ensure that the watercraft and associated equipment are not transporting prohibited aquatic animal species or aquatic plants.

**Sec. 4.** RCW 77.15.100 and 2012 c 176 s 10 are each amended to read as follows:

(1) Fish, shellfish, and wildlife are property of the state under RCW 77.04.012. Fish and wildlife officers may sell seized, commercially ~~((harvested))~~ taken or possessed fish and shellfish to a wholesale buyer and deposit the proceeds into the fish and wildlife enforcement reward account under RCW 77.15.425. Seized, recreationally ~~((harvested))~~ taken or possessed fish, shellfish, and wildlife may be donated to nonprofit charitable organizations. The charitable organization must qualify for tax-exempt status under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code.

(2) Unless otherwise provided in this title, fish, shellfish, or wildlife taken~~((;))~~ or possessed~~((-or harvested))~~ in violation of this title or department rule shall be forfeited to the state upon conviction or any outcome in criminal court whereby a person voluntarily enters into a disposition that continues or defers the case for dismissal upon the successful completion of specific terms or conditions. For criminal cases resulting in other types of dispositions, the fish, shellfish, or wildlife may be returned, or its equivalent value paid, if the fish, shellfish, or wildlife have already been donated or sold.

**Sec. 5.** RCW 77.15.120 and 2000 c 107 s 236 are each amended to read as follows:

(1) A person is guilty of unlawful taking of endangered fish or wildlife in the second degree if:

(a) The person hunts for, fishes for, possesses, maliciously harasses, or kills fish or wildlife, or ~~((maliciously))~~ possesses or intentionally destroys the nests or eggs of fish or wildlife ~~((and))~~;

(b) The fish or wildlife is designated by the commission as endangered~~((;))~~; and

(c) The taking of the fish or wildlife or the destruction of the nests or eggs has not been authorized by rule of the commission, a permit issued by the department, or a permit issued pursuant to the federal endangered species act.

(2) A person is guilty of unlawful taking of endangered fish or wildlife in the first degree if the person has been:

(a) Convicted under subsection (1) of this section or convicted of any crime under this title involving the ~~((killing, possessing, harassing, or harming))~~ taking, possessing, or malicious harassment of endangered fish or wildlife; and

(b) Within five years of the date of the prior conviction the person commits the act described by subsection (1) of this section.

(3)(a) Unlawful taking of endangered fish or wildlife in the second degree is a gross misdemeanor.

(b) Unlawful taking of endangered fish or wildlife in the first degree is a class C felony. The department shall revoke any licenses or tags used in connection with the crime and order the person's privileges to hunt, fish, trap, or obtain licenses under this title to be suspended for two years.

**Sec. 6.** RCW 77.15.130 and 2012 c 176 s 14 are each amended to read as follows:

(1) A person is guilty of unlawful taking of protected fish or wildlife if:

(a) The person hunts for, fishes for, maliciously takes, harasses, or possesses~~((-or maliciously kills protected))~~ fish or wildlife, or the person possesses or maliciously destroys the eggs or nests of ~~((protected))~~ fish or wildlife designated by the commission as protected, other than species designated as threatened or sensitive, and the taking has not been authorized by rule of the commission or by a permit issued by the department; ~~((or))~~

(b) The person violates any rule of the commission regarding the taking, ~~((harming, harassment))~~ harassing, possession, or transport of protected fish or wildlife; or

(c)(i) The person hunts for, fishes for, intentionally takes, harasses, or possesses fish or wildlife, or the person possesses or intentionally destroys the nests or eggs of fish or wildlife designated by the commission as threatened or sensitive; and

(ii) The taking of the fish or wildlife, or the destruction of the

FIFTY SEVENTH DAY, MARCH 10, 2014

2014 REGULAR SESSION

nests or eggs, has not been authorized by rule of the commission, a permit issued by the department, or a permit issued pursuant to the federal endangered species act.

(2) Unlawful taking of protected fish or wildlife is a misdemeanor.

(3) In addition to the penalties set forth in subsection (2) of this section, if a person is convicted of violating this section and the violation results in the death of protected wildlife listed in this subsection, the court shall require payment of the following amounts for each animal (~~killed~~) taken or possessed. This is a criminal wildlife penalty assessment that must be paid to the clerk of the court and distributed each month to the state treasurer for deposit in the fish and wildlife enforcement reward account created in RCW 77.15.425:

- (a) Ferruginous hawk, two thousand dollars;
- (b) Common loon, two thousand dollars;
- (c) Bald eagle, two thousand dollars;
- (d) Golden eagle, two thousand dollars; and
- (e) Peregrine falcon, two thousand dollars.

(4) If two or more persons are convicted under subsection (1) of this section, and subsection (3) of this section is applicable, the criminal wildlife penalty assessment must be imposed against the persons jointly and (~~separately~~) severally.

(5)(a) The criminal wildlife penalty assessment under subsection (3) of this section must be imposed regardless of and in addition to any sentence, fines, or costs otherwise provided for violating any provision of this section. The criminal wildlife penalty assessment must be included by the court in any pronouncement of sentence and may not be suspended, waived, modified, or deferred in any respect.

(b) This subsection may not be construed to abridge or alter alternative rights of action or remedies in equity or under common law or statutory law, criminal or civil.

(6) A defaulted criminal wildlife penalty assessment authorized under subsection (3) of this section may be collected by any means authorized by law for the enforcement of orders of the court or collection of a fine or costs, including but not limited to vacation of a deferral of sentencing or vacation of a suspension of sentence.

(7) The department shall revoke the hunting license and suspend the hunting privileges of a person assessed a criminal wildlife penalty assessment under this section until the penalty assessment is paid through the registry of the court in which the penalty assessment was assessed.

(8) The criminal wildlife penalty assessments provided in subsection (3) of this section must be doubled in the following instances:

(a) When a person commits a violation that requires payment of a criminal wildlife penalty assessment within five years of a prior gross misdemeanor or felony conviction under this title; or

(b) When the trier of fact determines that the person (~~killed~~) took or possessed the protected wildlife in question with the intent of bartering, selling, or otherwise deriving economic profit from the wildlife or wildlife parts.

**Sec. 7.** RCW 77.15.160 and 2013 c 307 s 2 are each amended to read as follows:

The following acts are infractions and must be cited and punished as provided under chapter 7.84 RCW:

(1) Fishing and shellfishing infractions:

(a) Barbed hooks: Fishing for personal use with barbed hooks in violation of any department rule.

(b) Catch recording: Failing to immediately record a catch of fish or shellfish on a catch record card as required by RCW 77.32.430 or department rule.

(c) Catch reporting: Failing to return a catch record card to the department for other than Puget Sound Dungeness crab, as required by department rule.

(d) Recreational fishing: Fishing for fish or shellfish (~~and~~), without yet possessing fish or shellfish, the person:

(i) Owns, but fails to have in the person's possession, the license or the catch record card required by chapter 77.32 RCW for such an activity; or

(ii) Violates any department rule regarding seasons, closed areas, closed times, or any other rule addressing the manner or method of fishing for fish or shellfish. This subsection does not apply to use of a net to take fish under RCW 77.15.580 or the unlawful use of shellfish gear for personal use under RCW 77.15.382.

(e) Seaweed: Taking(~~(-)~~) or possessing(~~(- or harvesting)~~) less than two times the daily possession limit of seaweed:

(i) While owning, but not having in the person's possession, the license required by chapter 77.32 RCW; or

(ii) In violation of any rule of the department or the department of natural resources regarding seasons, closed areas, closed times, or any other rule addressing the manner or method of taking(~~(-)~~) or possessing(~~(- or harvesting of)~~) seaweed.

(f) Unclassified fish or shellfish: Fishing for or taking unclassified fish or shellfish in violation of (~~any department rule by killing, fishing, taking, holding, possessing, or maliciously injuring or harming fish or shellfish that is not classified as game fish, food fish, shellfish, protected fish, or endangered fish~~) this title or department rule.

(g) Wasting fish or shellfish: (~~(Killing,)~~) Taking(~~(-)~~) or possessing food fish, game fish, or shellfish having a value of less than two hundred fifty dollars and recklessly allowing the fish or shellfish to be wasted.

(2) Hunting infractions:

(a) Eggs or nests: Maliciously, and without permit authorization, destroying, taking, or harming the eggs or active nests of a wild bird or wild animal not classified as endangered or protected. For purposes of this subsection, "active nests" means nests that are attended by an adult or contain eggs or (~~nestlings~~) young.

(b) Unclassified wildlife: Hunting for, harassing, or taking unclassified wildlife in violation of (~~any department rule by killing, hunting, taking, holding, possessing, or maliciously injuring or harming wildlife that is not classified as big game, game animals, game birds, protected wildlife, or endangered wildlife~~) this title or department rule.

(c) Wasting wildlife: (~~(Killing,)~~) Taking(~~(-)~~) or possessing wildlife (~~(that is not)~~) classified as (~~(big)~~) game birds and (~~(has)~~) having a value of less than two hundred fifty dollars, and recklessly allowing the (~~(wildlife)~~) game birds to be wasted.

(d) Wild animals: Hunting for wild animals not classified as big game or threatened or endangered and, without yet possessing the wild animals, the person owns, but fails to have in the person's possession, all licenses, tags, or permits required by this title.

(e) Wild birds: Hunting for and, without yet possessing a wild bird or birds, the person:

(i) Owns, but fails to have in the person's possession, all licenses, tags, stamps, and permits required under this title; or

(ii) Violates any department rule regarding seasons, closed areas, closed times, or any other rule addressing the manner or method of hunting wild birds.

(3) Trapping, taxidermy, fur dealing, (~~and~~) wildlife meat cutting, and wildlife rehabilitator infractions:

(a) Recordkeeping and reporting: If a person is a taxidermist, fur dealer, or wildlife meat cutter who is processing, holding, or storing wildlife for commercial purposes, failing to:

(i) Maintain records as required by department rule; or  
 (ii) Report information from these records as required by department rule.

(b) Trapper's report: Failing to report trapping activity as required by department rule.

(c) Wildlife rehabilitator's recordkeeping and reporting: If a person is a primary permittee or a subpermittee on a wildlife rehabilitation permit issued by the department, failing to:

(i) Maintain records as required by department rule; or

(ii) Report information from these records as required by department rule.

(4) Aquatic invasive species infraction: Entering Washington by road and transporting a recreational or commercial watercraft that has been used outside of Washington without meeting documentation requirements as provided under RCW 77.12.879.

(5) Other infractions:

(a) Contests: Unlawfully conducting, holding, or sponsoring a hunting contest, a fishing contest involving game fish, or a competitive field trial using live wildlife.

(b) Other rules: Violating any other department rule that is designated by rule as an infraction.

(c) Posting signs: Posting signs preventing hunting or fishing on any land not owned or leased by the person doing the posting, or without the permission of the person who owns, leases, or controls the land posted.

(d) Scientific permits: Using a scientific permit issued by the director for fish, shellfish, or wildlife, but not including big game or big game parts, and the person:

(i) Violates any terms or conditions of the scientific permit; or

(ii) Violates any department rule applicable to the issuance or use of scientific permits.

(e) Transporting aquatic plants: Unlawfully transporting aquatic plants on any state or public road, including forest roads. However:

(i) This subsection does not apply to plants that are:

(A) Being transported to the department or to another destination designated by the director, in a manner designated by the department, for purposes of identifying a species or reporting the presence of a species;

(B) Legally obtained for aquarium use, wetland or lakeshore restoration, or ornamental purposes;

(C) Located within or on a commercial aquatic plant harvester that is being transported to a suitable location to remove aquatic plants;

(D) Being transported in a manner that prevents their unintentional dispersal, to a suitable location for disposal, research, or educational purposes; or

(E) Being transported in such a way as the commission may otherwise prescribe; and

(ii) This subsection does not apply to a person who:

(A) Is stopped at an aquatic invasive species check station and possesses a recreational or commercial watercraft that is contaminated with an aquatic invasive plant species if that person complies with all department directives for the proper decontamination of the watercraft and equipment; or

(B) Has voluntarily submitted a recreational or commercial watercraft for inspection by the department or its designee and has received a receipt verifying that the watercraft has not been contaminated since its last use.

**Sec. 8.** RCW 77.15.170 and 2012 c 176 s 16 are each amended to read as follows:

(1) A person is guilty of waste of fish and wildlife if the person:

(a) ~~((The person kills,))~~ Takes(~~(s)~~) or possesses wildlife classified as food fish, game fish, shellfish, or (~~wildlife~~) game birds having a value of two hundred fifty dollars or more, or wildlife classified as big game; and

(b) ~~((The person))~~ Recklessly allows such fish, shellfish, or wildlife to be wasted.

(2) Waste of fish and wildlife is a gross misdemeanor. Upon conviction, the department shall revoke any license or tag used in the crime and shall order suspension of the person's privileges to engage in the activity in which the person committed waste of fish and wildlife for a period of one year.

(3) It is prima facie evidence of waste if:

(a) A processor purchases or engages a quantity of food fish, shellfish, or game fish that cannot be processed within sixty hours after the food fish, game fish, or shellfish are taken from the water, unless the food fish, game fish, or shellfish are preserved in good marketable condition; or

(b) A person brings a big game animal to a wildlife meat cutter and then abandons the animal. For purposes of this subsection (3)(b), a big game animal is deemed to be abandoned when its carcass is placed in the custody of a wildlife meat cutter for butchering and processing and:

(i) Having been placed in such custody for an unspecified period of time, the meat is not removed within thirty days after the wildlife meat cutter gives notice to the person who brought in the carcass or, having been so notified, the person who brought in the carcass refuses or fails to pay the agreed upon or reasonable charges for the butchering or processing of the carcass; or

(ii) Having been placed in such custody for a specified period of time, the meat is not removed at the end of the specified period or the person who brought in the carcass refuses to pay the agreed upon or reasonable charges for the butchering or processing of the carcass.

**Sec. 9.** RCW 77.15.180 and 2001 c 253 s 29 are each amended to read as follows:

(1) A person is guilty of unlawful interference with fishing or hunting gear in the second degree if the person:

(a) ~~((Takes))~~ Removes or releases a wild animal from another person's trap without permission;

(b) Springs, pulls up, damages, possesses, or destroys another person's trap without the owner's permission; or

(c) Interferes with recreational gear used to take fish or shellfish.

(2) Unlawful interference with fishing or hunting gear in the second degree is a misdemeanor.

(3) A person is guilty of unlawful interference with fishing or hunting gear in the first degree if the person:

(a) ~~((Takes))~~ Removes or releases fish or shellfish from commercial fishing gear without the owner's permission; or

(b) Intentionally destroys or interferes with commercial fishing gear.

(4) Unlawful interference with fishing or hunting gear in the first degree is a gross misdemeanor.

(5) A person is not in violation of unlawful interference with fishing or hunting gear if the person removes a trap placed on property owned, leased, or rented by the person.

**Sec. 10.** RCW 77.15.190 and 2012 c 176 s 17 are each amended to read as follows:

(1) A person is guilty of unlawful trapping if the person:

(a) Sets out traps that are capable of taking wild animals, wild birds, game animals, or furbearing mammals and does not possess ~~((and))~~ the licenses, tags, or permits required under this title;

(b) Violates any department rule regarding seasons, bag, or possession limits, closed areas including game reserves, closed times, or any other rule governing the trapping of wild animals or wild birds, with the exception of reporting rules; or

(c) Fails to identify the owner of the traps or devices by neither

(i) attaching a metal tag with the owner's department-assigned identification number or the name and address of the trapper legibly written in numbers or letters not less than one-eighth inch in height



FIFTY SEVENTH DAY, MARCH 10, 2014

nor (ii) inscribing into the metal of the trap such number or name and address.

(2) Unlawful trapping is a misdemeanor.

**Sec. 11.** RCW 77.15.240 and 2012 c 176 s 18 are each amended to read as follows:

(1)(a) A person is guilty of unlawful use of dogs if the person:

~~((a))~~ (i) Negligently fails to prevent a dog under the person's control from pursuing, harassing, attacking, or killing deer, elk, moose, caribou, mountain sheep, or animals classified as endangered under this title; or

~~((b))~~ (ii) Uses the dog to hunt deer or elk.

~~((2))~~ (b) For the purposes of this subsection, a dog is "under a person's control" if the dog is owned or possessed by, or in the custody of, a person.

~~((3))~~ (2) Unlawful use of dogs is a misdemeanor.

~~((4))~~ (3)(a) Based on a reasonable belief that a dog is pursuing, harassing, attacking, or killing a ~~((snow-bound))~~ deer, elk, moose, caribou, mountain sheep, or animals classified as protected or endangered under this title, fish and wildlife officers and ex officio fish and wildlife officers may:

(i) Lawfully take a dog into custody; or

(ii) If necessary to avoid repeated harassment, injury, or death of wildlife under this section, destroy the dog.

(b) Fish and wildlife officers and ex officio fish and wildlife officers who destroy a dog pursuant to this section are immune from civil or criminal liability arising from their actions.

(4)(a) This section does not apply to a person using a dog to conduct a department-approved and controlled hazing activity, as long as the person prevents or minimizes physical contact between the dog and the wildlife, and the hazing is being done only for the purposes of wildlife control and the prevention of damage to commercial crops.

(b) For the purposes of this subsection, "hazing" means the act of chasing or herding wildlife in an effort to move them from one location to another.

**Sec. 12.** RCW 77.15.250 and 2001 c 253 s 32 are each amended to read as follows:

(1)(a) A person is guilty of unlawfully releasing, planting, possessing, or placing fish, shellfish, or wildlife if the person knowingly releases, plants, possesses, or places live fish, shellfish, wildlife, or aquatic plants within the state in violation of this title or rule of the department, and the fish, shellfish, or wildlife have not been classified as deleterious wildlife. This subsection does not apply to a release of game fish into private waters for which a game fish stocking permit has been obtained, or the planting of fish or shellfish by permit of the commission.

(b) A violation of this subsection is a gross misdemeanor. In addition, the department shall order the person to pay all costs the department incurred in capturing, killing, or controlling the fish, shellfish, aquatic plants, ~~((or wildlife released or its progeny))~~ wildlife, or progeny unlawfully released, planted, possessed, or placed. This does not affect the existing authority of the department to bring a separate civil action to recover costs of capturing, killing, or controlling the fish, shellfish, aquatic plants, ~~((or))~~ wildlife ~~((released or their progeny, or restoration of habitat necessitated by the unlawful release)), or progeny unlawfully released, planted, possessed, or placed, or the costs of habitat restoration necessitated by the unlawful release, planting, possession, or placing~~.

(2)(a) A person is guilty of ~~((unlawful release of))~~ unlawfully releasing, planting, possessing, or placing deleterious exotic wildlife if the person knowingly releases, plants, possesses, or places live fish, shellfish, or wildlife within the state in violation of this title or rule of the department, and ~~((such))~~ the fish, shellfish, or wildlife

2014 REGULAR SESSION

~~((has))~~ have been classified as deleterious exotic wildlife by rule of the commission.

(b) A violation of this subsection is a class C felony. In addition, the department shall ~~((also))~~ order the person to pay all costs the department incurred in capturing, killing, or controlling the fish, shellfish, ~~((or))~~ wildlife ~~((released or its progeny)), or progeny unlawfully released, planted, possessed, or placed~~. This does not affect the existing authority of the department to bring a separate civil action to recover costs of capturing, killing, or controlling the fish, shellfish, ~~((or wildlife released or their progeny, or restoration of habitat necessitated by the unlawful release))~~ wildlife, or progeny unlawfully released, planted, possessed, or placed, or the costs of habitat restoration necessitated by the unlawful release, planting, possession, or placing.

**Sec. 13.** RCW 77.15.370 and 2012 c 176 s 22 are each amended to read as follows:

(1) A person is guilty of unlawful recreational fishing in the first degree if:

(a) The person takes~~((s))~~ or possesses~~((s or retains))~~ two times or more than the bag limit or possession limit of fish or shellfish allowed by any rule of the director or commission setting the amount of food fish, game fish, or shellfish that can be taken~~((s))~~ or possessed~~((s or retained))~~ for noncommercial use;

(b) The person fishes in a fishway;

(c) The person shoots, gaffs, snags, snares, spears, dipnets, or stoves fish or shellfish in state waters, or possesses fish or shellfish taken by such means, unless such means are authorized by express department rule;

(d) The person fishes for or possesses a fish listed as threatened or endangered in 50 C.F.R. Sec. 223.102 (2006) or Sec. 224.101 (2010), unless fishing for or ~~((possession of))~~ possessing such fish is specifically allowed under federal or state law;

(e) The person possesses a white sturgeon measuring in excess of the maximum size limit as established by rules adopted by the department; ~~((or))~~

(f) ~~((The person possesses a salmon or steelhead during a season closed for that species))~~ The person possesses a green sturgeon of any size; or

(g)(i) The person possesses a wild salmon or wild steelhead during a season closed for wild salmon or wild steelhead.

(ii) For the purposes of this subsection:

(A) "Wild salmon" means a salmon with an unclipped adipose fin, regardless of whether the salmon's ventral fin is clipped.

(B) "Wild steelhead" means a steelhead with no fins clipped.

(2) Unlawful recreational fishing in the first degree is a gross misdemeanor.

(3) In addition to the penalties set forth in subsection (2) of this section, if a person is convicted of violating this section and the violation results in the death of fish listed in this subsection, the court shall require payment of the following amounts for each fish taken or possessed. This is a criminal wildlife penalty assessment that must be paid to the clerk of the court and distributed each month to the state treasurer for deposit in the fish and wildlife enforcement reward account created in RCW 77.15.425:

(a) White sturgeon longer than fifty-five inches in fork length, two thousand dollars;

(b) Green sturgeon, two thousand dollars; and

(c) Wild salmon or wild steelhead, five hundred dollars.

(4) If two or more persons are convicted under subsection (1) of this section, and subsection (3) of this section is applicable, the criminal wildlife penalty assessment must be imposed against the persons jointly and severally.

(5)(a) The criminal wildlife penalty assessment under subsection (3) of this section must be imposed regardless of and in addition to any sentence, fines, or costs otherwise provided for

violating any provision of this section. The criminal wildlife penalty assessment must be included by the court in any pronouncement of sentence and may not be suspended, waived, modified, or deferred in any respect.

(b) This subsection may not be construed to abridge or alter alternative rights of action or remedies in equity or under common law or statutory law, criminal or civil.

(6) A defaulted criminal wildlife penalty assessment authorized under subsection (3) of this section may be collected by any means authorized by law for the enforcement of orders of the court or collection of a fine or costs, including but not limited to vacation of a deferral of sentencing or vacation of a suspension of sentence.

(7) The department shall revoke the fishing license and suspend the fishing privileges of a person assessed a criminal wildlife penalty assessment under this section until the penalty assessment is paid through the registry of the court in which the penalty assessment was assessed.

(8) The criminal wildlife penalty assessments provided in subsection (3) of this section must be doubled in the following instances:

(a) When a person commits a violation that requires payment of a criminal wildlife penalty assessment within five years of a prior gross misdemeanor or felony conviction under this title; or

(b) When the trier of fact determines that the person took or possessed the fish in question with the intent of bartering, selling, or otherwise deriving economic profit from the fish or fish parts.

**Sec. 14.** RCW 77.15.380 and 2012 c 176 s 23 are each amended to read as follows:

(1) A person is guilty of unlawful recreational fishing in the second degree if the person fishes for fish or shellfish and, whether or not the person possesses fish or shellfish, the person has not purchased the appropriate fishing or shellfishing license and catch record card issued to Washington residents or nonresidents under chapter 77.32 RCW.

(2) A person is guilty of unlawful recreational fishing in the second degree if the person takes(~~(s)~~) or possesses(~~(-or harvests)~~) fish or shellfish and:

(a) The person owns, but does not have in the person's possession, the license or the catch record card required by chapter 77.32 RCW for such activity; or

(b) The action violates any department rule regarding seasons, bag or possession limits but less than two times the bag or possession limit, closed areas, closed times, or any other rule addressing the manner or method of fishing for, taking, or (~~(possession of)~~) possessing fish or shellfish. This section does not apply to use of a net to take fish under RCW 77.15.580 or the unlawful use of shellfish gear for personal use under RCW 77.15.382.

(3) Unlawful recreational fishing in the second degree is a misdemeanor.

**Sec. 15.** RCW 77.15.390 and 2012 c 176 s 24 are each amended to read as follows:

(1) A person is guilty of unlawful taking of seaweed if the person takes(~~(s)~~) or possesses(~~(-or harvests)~~) seaweed and:

(a) The person has not purchased a personal use shellfish and seaweed license issued to Washington residents or nonresidents under chapter 77.32 RCW; or

(b) The person takes(~~(s)~~) or possesses(~~(-or harvests)~~) seaweed in an amount that is two times or more of the daily possession limit of seaweed.

(2) Unlawful taking of seaweed is a misdemeanor. This does not affect rights of the state to recover civilly for trespass, conversion, or theft of state-owned valuable materials.

**Sec. 16.** RCW 77.15.420 and 2005 c 406 s 5 are each amended to read as follows:

(1) If a person is convicted of violating RCW 77.15.410 and that violation results in the death of wildlife listed in this section, the court shall require payment of the following amounts for each animal (~~(killed)~~) taken or possessed. This shall be a criminal wildlife penalty assessment that shall be paid to the clerk of the court and distributed each month to the state treasurer for deposit in the fish and wildlife enforcement reward account created in RCW 77.15.425.

(a)	Moose, mountain sheep, mountain goat, and all wildlife species classified as endangered by rule of the commission, except for mountain caribou and grizzly bear as listed under (d) of this subsection.....	\$4,000
(b)	Elk, deer, black bear, and cougar .....	\$2,000
(c)	Trophy animal elk and deer.....	\$6,000
(d)	Mountain caribou, grizzly bear, and trophy animal mountain sheep.....	\$12,000

(2) ((No forfeiture of bail may be less than the amount of the bail established for hunting during closed season plus the amount of the criminal wildlife penalty assessment in subsection (1) of this section.

(3)) (a) For the purpose of this section a "trophy animal" is:

((~~(a)~~)) (i) A buck deer with four or more antler points on both sides, not including eyeguards;

((~~(b)~~)) (ii) A bull elk with five or more antler points on both sides, not including eyeguards; or

((~~(c)~~)) (iii) A mountain sheep with a horn curl of three-quarter curl or greater.

(b) For purposes of this subsection, "eyeguard" means an antler protrusion on the main beam of the antler closest to the eye of the animal.

((~~(4)~~)) (3) If two or more persons are convicted of illegally possessing wildlife in subsection (1) of this section, the criminal wildlife penalty assessment shall be imposed on them jointly and (~~(separately)~~) severally.

((~~(5)~~)) (4) The criminal wildlife penalty assessment shall be imposed regardless of and in addition to any sentence, fines, or costs otherwise provided for violating any provision of this title. The criminal wildlife penalty assessment shall be included by the court in any pronouncement of sentence and may not be suspended, waived, modified, or deferred in any respect. This section may not be construed to abridge or alter alternative rights of action or remedies in equity or under common law or statutory law, criminal or civil.

((~~(6)~~)) (5) A defaulted criminal wildlife penalty assessment may be collected by any means authorized by law for the enforcement of orders of the court or collection of a fine or costs, including but not limited to vacation of a deferral of sentencing or vacation of a suspension of sentence.

((~~(7)~~)) (6) A person assessed a criminal wildlife penalty assessment under this section shall have his or her hunting license revoked and all hunting privileges suspended until the penalty assessment is paid through the registry of the court in which the penalty assessment was assessed.

((~~(8)~~)) (7) The criminal wildlife penalty assessments provided in subsection (1) of this section shall be doubled in the following instances:

(a) When a person is convicted of spotlighting big game under RCW 77.15.450;

FIFTY SEVENTH DAY, MARCH 10, 2014

2014 REGULAR SESSION

(b) When a person commits a violation that requires payment of a wildlife penalty assessment within five years of a prior gross misdemeanor or felony conviction under this title;

(c) When the trier of fact determines that the person ((killed)) took or possessed the animal in question with the intent of bartering, selling, or otherwise deriving economic profit from the animal or the animal's parts; or

(d) When ~~((a))~~ the trier of fact determines that the person ((kills)) took the animal under the supervision of a licensed guide.

**Sec. 17.** RCW 77.15.425 and 2009 c 333 s 18 are each amended to read as follows:

The fish and wildlife enforcement reward account is created in the custody of the state treasurer. Deposits to the account include: Receipts from fish and shellfish overages as a result of a department enforcement action; fees for hunter education deferral applications; fees for master hunter applications and master hunter certification renewals; all receipts from criminal wildlife penalty assessments under RCW 77.15.370, 77.15.400, and 77.15.420; all receipts of court-ordered restitution or donations associated with any fish, shellfish, or wildlife enforcement action; and proceeds from forfeitures and evidence pursuant to RCW 77.15.070 and 77.15.100. The department may accept money or personal property from persons under conditions requiring the property or money to be used consistent with the intent of expenditures from the fish and wildlife enforcement reward account. Expenditures from the account may be used only for investigation and prosecution of fish and wildlife offenses, to provide rewards to persons informing the department about violations of this title and rules adopted under this title, to offset department-approved costs incurred to administer the hunter education deferral program and the master hunter ~~((permit))~~ permit program, and for other valid enforcement uses as determined by the commission. 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.

**Sec. 18.** RCW 77.15.460 and 2012 c 176 s 28 are each amended to read as follows:

(1) A person is guilty of unlawful possession of a loaded rifle or shotgun in a motor vehicle, as defined in RCW 46.04.320, or upon an off-road vehicle, as defined in RCW 46.04.365, if:

(a) The person carries, transports, conveys, possesses, or controls a rifle or shotgun in a motor vehicle, or upon an off-road vehicle, except as allowed by department rule; and

(b) The rifle or shotgun contains shells or cartridges in the magazine or chamber, or is a muzzle-loading firearm that is loaded and capped or primed.

(2) A person is guilty of unlawful use of a loaded firearm if:

(a) The person negligently discharges a firearm from, across, or along the maintained portion of a public highway; or

(b) The person discharges a firearm from within a moving motor vehicle or from upon a moving off-road vehicle.

(3) Unlawful possession of a loaded rifle or shotgun in a motor vehicle or upon an off-road vehicle, and unlawful use of a loaded firearm are misdemeanors.

(4) This section does not apply if the person:

(a) Is a law enforcement officer who is authorized to carry a firearm and is on duty within the officer's respective jurisdiction;

(b) Possesses a disabled hunter's permit as provided by RCW 77.32.237 and complies with all rules of the department concerning hunting by persons with disabilities; or

(c) Discharges the rifle or shotgun from upon a nonmoving motor vehicle ~~((or a nonmoving off-road vehicle))~~, as long as the engine is turned off and the motor vehicle ~~((or off-road vehicle))~~ is not parked on or beside the maintained portion of a public road, except as authorized by the commission by rule. This subsection

(4)(c) does not apply to off-road vehicles, which are unlawful to use for hunting under RCW 46.09.480, unless the person has a department permit issued under RCW 77.32.237.

(5) For purposes of subsection (1) of this section, a rifle or shotgun shall not be considered loaded if the detachable clip or magazine is not inserted in or attached to the rifle or shotgun.

**Sec. 19.** RCW 77.15.470 and 2000 c 107 s 246 are each amended to read as follows:

(1) A person is guilty of unlawfully avoiding wildlife check stations or field inspections if the person fails to:

(a) Obey check station signs;

(b) Stop and report at a check station if directed to do so by a uniformed fish and wildlife officer or if directed by an ex officio fish and wildlife officer participating in a department-authorized check station; or

(c) Produce for inspection upon request by a fish and wildlife officer or ex officio fish and wildlife officer: (i) Hunting or fishing equipment; (ii) seaweed, fish, shellfish, or wildlife; or (iii) licenses, permits, tags, stamps, or catch record cards required by this title.

(2) Unlawfully avoiding wildlife check stations or field inspections is a gross misdemeanor.

(3) Wildlife check stations may not be established upon interstate highways or state routes.

**Sec. 20.** RCW 77.15.480 and 2001 c 253 s 42 are each amended to read as follows:

Articles or devices unlawfully used, possessed, or maintained for ~~((catching))~~ taking, ~~((killing))~~ harassing, attracting, or decoying wildlife, fish, and shellfish are public nuisances. If necessary, fish and wildlife officers and ex officio fish and wildlife officers may seize, abate, or destroy these public nuisances without warrant or process.

**Sec. 21.** RCW 77.15.630 and 2012 c 176 s 31 are each amended to read as follows:

(1) A person ((who acts in the capacity of a wholesale fish dealer, anadromous game fish buyer, or a fish buyer is guilty of unlawful fish and shellfish catch accounting in the second degree if the person:

(a) Possesses or receives fish or shellfish for commercial purposes worth less than two hundred fifty dollars; and

(b)) licensed as a commercial fisher, wholesale fish dealer, direct retail seller, anadromous game fish buyer, or a fish buyer, or a person not so licensed but acting in such a capacity, is guilty of unlawful fish and shellfish catch accounting in the second degree if he or she receives or delivers for commercial purposes fish or shellfish worth less than two hundred fifty dollars; and

(a) Fails to document such fish or shellfish with a fish-receiving ticket or other documentation required by statute or department rule; ((or

(c))) (b) Fails to sign the fish receiving ticket or other required documentation, fails to provide all of the information required by statute or department rule on the fish receiving ticket or other documentation, or both; or

(c) Fails to submit the fish receiving ticket to the department as required by statute or department rule.

(2) A person is guilty of unlawful fish and shellfish catch accounting in the first degree if the person commits ~~((the))~~ an act described by subsection (1) of this section and:

(a) The violation involves fish or shellfish worth two hundred fifty dollars or more;

(b) The person acted with knowledge that the fish or shellfish were taken from a closed area, at a closed time, or by a person not licensed to take such fish or shellfish for commercial purposes; or

(c) The person acted with knowledge that the fish or shellfish were taken in violation of any tribal law.

(3)(a) Unlawful fish and shellfish catch accounting in the second degree is a gross misdemeanor.

(b) Unlawful fish and shellfish catch accounting in the first degree is a class C felony. Upon conviction, the department shall suspend all privileges to engage in fish buying or dealing for two years.

(4) For the purposes of this section:

(a) A person "receives" fish or shellfish when title or control of the fish or shellfish is transferred or conveyed to the person.

(b) A person "delivers" fish or shellfish when title or control of the fish or shellfish is transferred or conveyed from the person.

**Sec. 22.** RCW 77.15.740 and 2012 c 176 s 37 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, it is unlawful to:

(a) Cause a vessel or other object to approach, in any manner, within two hundred yards of a southern resident orca whale;

(b) Position a vessel to be in the path of a southern resident orca whale at any point located within four hundred yards of the whale. This includes intercepting a southern resident orca whale by positioning a vessel so that the prevailing wind or water current carries the vessel into the path of the whale at any point located within four hundred yards of the whale;

(c) Fail to disengage the transmission of a vessel that is within two hundred yards of a southern resident orca whale; or

(d) Feed a southern resident orca whale.

(2) A person is exempt from subsection (1) of this section if that person is:

(a) Operating a federal government vessel in the course of his or her official duties, or operating a state, tribal, or local government vessel when engaged in official duties involving law enforcement, search and rescue, or public safety;

(b) Operating a vessel in conjunction with a vessel traffic service established under 33 C.F.R. and following a traffic separation scheme, or complying with a vessel traffic service measure of direction. This also includes support vessels escorting ships in the traffic lanes, such as tug boats;

(c) Engaging in an activity, including scientific research, pursuant to a permit or other authorization from the national marine fisheries service and the department;

(d) Lawfully engaging in a treaty Indian or commercial fishery that is actively setting, retrieving, or closely tending fishing gear;

(e) Conducting vessel operations necessary to avoid an imminent and serious threat to a person, vessel, or the environment, including when necessary for overall safety of navigation and to comply with state and federal navigation requirements; or

(f) Engaging in rescue or clean-up efforts of a beached southern resident orca whale overseen, coordinated, or authorized by a volunteer stranding network.

(3) For the purpose of this section, "vessel" includes aircraft((, canoes, fishing vessels, kayaks, personal watercraft, rafts, recreational vessels, tour boats, whale watching boats, vessels engaged in whale watching activities, or other small craft including power boats and sailboats)) while on the surface of the water, and every description of watercraft on the water that is used or capable of being used as a means of transportation on the water. However, "vessel" does not include inner tubes, air mattresses, sailboards, and small rafts, or flotation devices or toys customarily used by swimmers.

(4)(a) A violation of this section is a natural resource infraction punishable under chapter 7.84 RCW and carries a fine of five hundred dollars, not including statutory assessments added pursuant to RCW 3.62.090.

(b) A person who qualifies for an exemption under subsection (2) of this section may offer that exemption as an affirmative

defense, which that person must prove by a preponderance of the evidence.

**Sec. 23.** RCW 77.15.770 and 2011 c 324 s 2 are each amended to read as follows:

(1) Except as otherwise provided in this section, a person is guilty of unlawful trade in shark fins in the second degree if:

(a) The person sells, offers for sale, purchases, offers to purchase, or otherwise exchanges a shark fin or shark fin derivative product for commercial purposes; or

(b) The person prepares or processes a shark fin or shark fin derivative product for human or animal consumption for commercial purposes.

(2) Except as otherwise provided in this section, a person is guilty of unlawful trade in shark fins in the first degree if:

(a) The person commits the act described by subsection (1) of this section and the violation involves shark fins or a shark fin derivative product with a total market value of two hundred fifty dollars or more;

(b) The person commits the act described by subsection (1) of this section and acted with knowledge that the shark fin or shark fin derivative product originated from a shark that was harvested in an area or at a time where or when the harvest was not legally allowed or by a person not licensed to harvest the shark; or

(c) The person commits the act described by subsection (1) of this section and the violation occurs within five years of entry of a prior conviction under this section or a prior conviction for any other gross misdemeanor or felony under this title involving fish, other than a recreational fishing violation.

(3)(a) Unlawful trade in shark fins in the second degree is a gross misdemeanor. Upon conviction, the department shall suspend any commercial fishing privileges for the person that requires a license under this title for a period of one year.

(b) Unlawful trade in shark fins in the first degree is a class C felony. Upon conviction, the department shall suspend any commercial fishing privileges for the person that requires a license under this title for a period of one year.

(4) Any person who obtains a license or permit issued by the department to take or possess sharks or shark parts for bona fide research or educational purposes, and who sells, offers for sale, purchases, offers to purchase, or otherwise trades a shark fin or shark fin derivative product, exclusively for bona fide research or educational purposes, may not be held liable under or subject to the penalties of this section.

((5) Nothing in this section prohibits the sale, offer for sale, purchase, offer to purchase, or other exchange of shark fins or shark fin derivative products for commercial purposes, or preparation or processing of shark fins or shark fin derivative products for purposes of human or animal consumption for commercial purposes, if the shark fins or shark fin derivative products were lawfully harvested or lawfully acquired prior to July 22, 2011.))

**NEW SECTION. Sec. 24.** A new section is added to chapter 77.15 RCW to read as follows:

(1) It is unlawful for any person to possess in Washington any fish, shellfish, or wildlife that the person knows was taken in another state or country in violation of that state's or country's laws or regulations relating to licenses or tags, seasons, areas, methods, or bag or possession limits.

(2) As used in this section, the terms "fish," "shellfish," and "wildlife" have the meaning ascribed to those terms in the applicable law or regulation of the state or country of the fish's, shellfish's, or wildlife's origin.

(3) Unlawful possession of fish, shellfish, or wildlife taken or possessed in violation of another state's or country's laws or regulations is a gross misdemeanor.

**NEW SECTION. Sec. 25.** A new section is added to chapter 77.15 RCW to read as follows:

FIFTY SEVENTH DAY, MARCH 10, 2014

2014 REGULAR SESSION

(1)(a) A person is guilty of engaging in wildlife rehabilitation without a permit if the person captures, transports, treats, feeds, houses, conditions, or trains injured, diseased, oiled, or abandoned wildlife without department authority for temporary actions or a wildlife rehabilitation permit issued by the department.

(b) The department must adopt rules for permissible temporary actions that include, at a minimum, the conditions under which a person may capture or transport wildlife to a primary permittee, subpermittee, or a rehabilitation facility.

(2) A person who is a primary permittee or subpermittee on a wildlife rehabilitation permit issued by the department is guilty of unlawful use of a wildlife rehabilitation permit if the person violates any permit provisions or department rules pertaining to wildlife rehabilitation other than those addressing recordkeeping and reporting requirements.

(3) A violation of this section is a misdemeanor.

**Sec. 26.** RCW 77.32.010 and 2011 c 320 s 19 are each amended to read as follows:

(1) Except as otherwise provided in this chapter or department rule, a recreational license issued by the director is required to hunt ~~((for or take wild animals or wild birds, fish for, take, or harvest fish, shellfish, and)), fish, or take wildlife~~ or seaweed. A recreational fishing or shellfish license is not required for carp, smelt, and crawfish, and a hunting license is not required for bullfrogs.

(2) A pass or permit issued under RCW 79A.80.020, 79A.80.030, or 79A.80.040 is required to park or operate a motor vehicle on a recreation site or lands, as defined in RCW 79A.80.010.

(3) ~~((During the 2009-2011 fiscal biennium to enable the implementation of the pilot project established in section 307, chapter 329, Laws of 2008.))~~ The commission may, by rule, indicate that a fishing permit issued to a nontribal member by the Colville Tribes shall satisfy the license requirements in subsection (1) of this section on the waters of Lake Rufus Woods and on the north shore of Lake Rufus Woods, and that a Colville Tribes tribal member identification card shall satisfy the license requirements in subsection (1) of this section on all waters of Lake Rufus Woods.

**Sec. 27.** RCW 77.65.280 and 2013 c 23 s 244 are each amended to read as follows:

~~(1)~~ A wholesale fish dealer's license is required for:

~~((1))~~ (a) A business in the state to engage in the commercial processing of food fish or shellfish, including custom canning or processing of personal use food fish or shellfish.

~~((2))~~ (b) A business in the state to engage in the wholesale selling, buying, or brokering of food fish or shellfish. A wholesale fish dealer's license is not required of those businesses which buy exclusively from Washington licensed wholesale dealers and sell solely at retail.

~~((3))~~ (c) Fishers who land and sell their catch or harvest in the state to anyone other than a licensed wholesale dealer within or outside the state, unless the fisher has a direct retail endorsement.

~~((4))~~ (d) A business to engage in the commercial manufacture or preparation of fertilizer, oil, meal, caviar, fish bait, or other by-products from food fish or shellfish.

~~((5))~~ (e) A business ~~((employing))~~ engaging a fish buyer as defined under RCW 77.65.340.

(2) The annual license fee for a wholesale dealer is two hundred fifty dollars. The application fee is one hundred five dollars. A wholesale fish dealer's license is not required for persons engaged in the processing, wholesale selling, buying, or brokering of private sector cultured aquatic products as defined in RCW 15.85.020. However, if a means of identifying such products is required by rules adopted under RCW 15.85.060, the exemption from licensing requirements established by this subsection applies only if the aquatic products are identified in conformance with those rules.

**Sec. 28.** RCW 77.65.340 and 2013 c 23 s 245 are each amended to read as follows:

(1) A fish buyer's license is required of and shall be carried by each individual engaged by a wholesale fish dealer to purchase food fish or shellfish from a ~~((licensed))~~ commercial fisher. A fish buyer may represent only one wholesale fish dealer.

(2) The annual fee for a fish buyer's license is ninety-five dollars. The application fee is one hundred five dollars.

NEW SECTION. **Sec. 29.** RCW 77.15.560 (Commercial fish, shellfish harvest or delivery--Failure to report--Penalty) and 1998 c 190 s 41 are each repealed.

NEW SECTION. **Sec. 30.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Pearson moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6041.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Pearson that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6041.

The motion by Senator Pearson carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6041 by voice vote.

Senators Pearson and Liias spoke in favor of final passage.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6041, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6041, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Voting nay: Senator Dansel

Excused: Senator Hargrove

ENGROSSED SUBSTITUTE SENATE BILL NO. 6041, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 6, 2014

MR. PRESIDENT:

The House passed SENATE BILL NO. 5775 with the following amendment(s): 5775 AMH TR H4411.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.20.161 and 2012 c 80 s 8 are each amended to read as follows:

(1) The department, upon receipt of a fee of forty-five dollars from October 1, 2012, to June 30, 2013, and fifty-four dollars after June 30, 2013, unless the driver's license is issued for a period other than five years from October 1, 2012, to June 30, 2013, or six years after June 30, 2013, in which case the fee shall be nine dollars for each year that the license is issued, which includes the fee for the required photograph, shall issue to every qualifying applicant a driver's license. A driver's license issued to a person under the age of eighteen is an intermediate license, subject to the restrictions imposed under RCW 46.20.075, until the person reaches the age of eighteen. The license must include a distinguishing number assigned to the licensee, the name of record, date of birth, Washington residence address, photograph, a brief description of the licensee, ~~((and))~~ either a facsimile of the signature of the licensee or a space upon which the licensee shall write his or her usual signature with pen and ink immediately upon receipt of the license, and, if applicable, the person's status as a veteran as provided in subsection (2) of this section. No license is valid until it has been so signed by the licensee.

(2) A person may apply to the department to obtain a veteran designation on a driver's license issued under this section by providing the United States department of defense discharge document, DD Form 214, as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, that shows a discharge status of "honorable" or "general under honorable conditions" that establishes the person's service in the armed forces of the United States.

**Sec. 2.** RCW 46.20.117 and 2012 c 80 s 6 are each amended to read as follows:

(1) **Issuance.** The department shall issue an identicard, containing a picture, if the applicant:

- (a) Does not hold a valid Washington driver's license;
- (b) Proves his or her identity as required by RCW 46.20.035;

and

(c) Pays the required fee. Except as provided in subsection (5) of this section, the fee is forty-five dollars from October 1, 2012, to June 30, 2013, and fifty-four dollars after June 30, 2013, unless an applicant is a recipient of continuing public assistance grants under Title 74 RCW, who is referred in writing by the secretary of social and health services. For those persons the fee must be the actual cost of production of the identicard.

(2)(a) **Design and term.** The identicard must:

~~((a))~~ (i) Be distinctly designed so that it will not be confused with the official driver's license; and

~~((b))~~ (ii) Except as provided in subsection (5) of this section, expire on the sixth anniversary of the applicant's birthdate after issuance.

(b) The identicard may include the person's status as a veteran, consistent with RCW 46.20.161(2).

(3) **Renewal.** An application for identicard renewal may be submitted by means of:

- (a) Personal appearance before the department; or
- (b) Mail or electronic commerce, if permitted by rule of the department and if the applicant did not renew his or her identicard by mail or by electronic commerce when it last expired.

An identicard may not be renewed by mail or by electronic commerce unless the renewal issued by the department includes a photograph of the identicard holder.

(4) **Cancellation.** The department may cancel an identicard if the holder of the identicard used the card or allowed others to use the card in violation of RCW 46.20.0921.

(5) **Alternative issuance/renewal/extension.** The department may issue or renew an identicard for a period other than five years from October 1, 2012, to June 30, 2013, or six years after June 30, 2013, or may extend by mail or electronic commerce an identicard that has already been issued, in order to evenly distribute, as nearly as possible, the yearly renewal rate of identicard holders. The fee for an identicard issued or renewed for a period other than five years from October 1, 2012, to June 30, 2013, or six years after June 30, 2013, or that has been extended by mail or electronic commerce, is nine dollars for each year that the identicard is issued, renewed, or extended. The department may adopt any rules as are necessary to carry out this subsection.

NEW SECTION. **Sec. 3.** This act takes effect August 30, 2017."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Benton moved that the Senate concur in the House amendment(s) to Senate Bill No. 5775.

Senator Benton spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Benton that the Senate concur in the House amendment(s) to Senate Bill No. 5775.

The motion by Senator Benton carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5775 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5775, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5775, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dandel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist, Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

SENATE BILL NO. 5775, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2014

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6016 with the following amendment(s): 6016-S.E AMH ENGR H4396.E

FIFTY SEVENTH DAY, MARCH 10, 2014

2014 REGULAR SESSION

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 43.71 RCW to read as follows:

(1) The exchange must support the grace period by providing electronic information to an issuer of a qualified health plan or a qualified dental plan that complies with 45 C.F.R. Sec. 156.270 (2013) and 45 C.F.R. Sec. 155.430 (2013).

(2) If the health benefit exchange notifies an enrollee that he or she is delinquent on payment of premium, the notice must include information on how to report a change in income or circumstances and an explanation that such a report may result in a change in the premium amount or program eligibility.

**NEW SECTION. Sec. 2.** A new section is added to chapter 48.43 RCW to read as follows:

(1) For an enrollee who is in the second or third month of the grace period, an issuer of a qualified health plan shall:

(a) Upon request by a health care provider or health care facility, provide information regarding the enrollee's eligibility status in real-time; and

(b) Notify a health care provider or health care facility that an enrollee is in the grace period within three business days after submittal of a claim or status request for services provided.

(2) The information or notification required under subsection (1) of this section must, at a minimum, indicate "grace period" or use the appropriate national coding standard as the reason for pending the claim if a claim is pending due to the enrollee's grace period status.

(3) By December 1, 2014, and annually each December 1st thereafter, the health benefit exchange shall provide a report to the appropriate committees of the legislature with the following information for the calendar year: (a) The number of exchange enrollees who entered the grace period; (b) the number of enrollees who subsequently paid premium after entering the grace period; (c) the average number of days enrollees were in the grace period prior to paying premium; and (d) the number of enrollees who were in the grace period and whose coverage was terminated due to nonpayment of premium. The report must include as much data as is available for the calendar year.

(4) For purposes of this section, "grace period" means nonpayment of premiums by an enrollee receiving advance payments of the premium tax credit, as defined in section 1412 of the patient protection and affordable care act, P.L. 111-148, as amended by the health care and education reconciliation act, P.L. 111-152, and implementing regulations issued by the federal department of health and human services.

**Sec. 3.** RCW 48.43.--- and 2014 c . . . s 2 (section 2 of this act) are each amended to read as follows:

(1) For an enrollee who is in the second or third month of the grace period, an issuer of a qualified health plan shall:

(a) Upon request by a health care provider or health care facility, provide information regarding the enrollee's eligibility status in real-time; and

(b) Notify a health care provider or health care facility that an enrollee is in the grace period within three business days after submittal of a claim or status request for services provided.

(2) The information or notification required under subsection (1) of this section must, at a minimum(;-):

(a) Indicate "grace period" or use the appropriate national coding standard as the reason for pending the claim if a claim is pending due to the enrollee's grace period status; and

(b) Except for notifications provided electronically, indicate that enrollee is in the second or third month of the grace period.

(3) By December 1, 2014, and annually each December 1st thereafter, the health benefit exchange shall provide a report to the

appropriate committees of the legislature with the following information for the calendar year: (a) The number of exchange enrollees who entered the grace period; (b) the number of enrollees who subsequently paid premium after entering the grace period; (c) the average number of days enrollees were in the grace period prior to paying premium; and (d) the number of enrollees who were in the grace period and whose coverage was terminated due to nonpayment of premium. The report must include as much data as is available for the calendar year.

(4) For purposes of this section, "grace period" means nonpayment of premiums by an enrollee receiving advance payments of the premium tax credit, as defined in section 1412 of the patient protection and affordable care act, P.L. 111-148, as amended by the health care and education reconciliation act, P.L. 111-152, and implementing regulations issued by the federal department of health and human services.

**NEW SECTION. Sec. 4.** Section 3 of this act takes effect January 1st following the issuance of a report under section 2(3) of this act indicating that coverage was terminated due to nonpayment of premium for ten thousand or more enrollees who were in the grace period in that calendar year. In no case may section 3 of this act take effect before January 1, 2015. The health benefit exchange must provide notice of the effective date of section 3 of this act 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 health benefit exchange."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Rivers moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6016.

Senator Rivers spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Rivers that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6016.

The motion by Senator Rivers carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6016 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6016, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6016, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 4; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Voting nay: Senators Dansel, Ericksen, Holmquist Newbry and Padden

ENGROSSED SUBSTITUTE SENATE BILL NO. 6016, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2014

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6137 with the following amendment(s): 6137-S.E AMH HCW H4419.1

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** 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) "Insurer" has the same meaning as in RCW 48.01.050.

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

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

(5)(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) "Third-party payor" means a person licensed under RCW 48.39.005.

**NEW SECTION. Sec. 2.** (1) To conduct business in this state, a pharmacy benefit manager must register with the department of revenue's business licensing service 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.

(3) To renew a registration under this section, a pharmacy benefit manager must pay a renewal fee of two hundred dollars.

(4) All receipts from registrations and renewals collected by the department must be deposited into the business license account created in RCW 19.02.210.

**NEW SECTION. Sec. 3.** As used in sections 3 through 9 of this act:

(1) "Audit" means an on-site or remote review of the records of a pharmacy by or on behalf of an entity.

(2) "Clerical error" means a minor error:

(a) In the keeping, recording, or transcribing of records or documents or in the handling of electronic or hard copies of correspondence;

(b) That does not result in financial harm to an entity; and

(c) That does not involve dispensing an incorrect dose, amount or type of medication, or dispensing a prescription drug to the wrong person.

(3) "Entity" includes:

(a) A pharmacy benefit manager;

(b) An insurer;

(c) A third-party payor;

(d) A state agency; or

(e) A person that represents or is employed by one of the entities described in this subsection.

(4) "Fraud" means knowingly and willfully executing or attempting to execute a scheme, in connection with the delivery of or payment for health care benefits, items, or services, that uses false or misleading pretenses, representations, or promises to obtain any money or property owned by or under the custody or control of any person.

**NEW SECTION. Sec. 4.** An entity that audits claims or an independent third party that contracts with an entity to audit claims:

(1) Must establish, in writing, a procedure for a pharmacy to appeal the entity's findings with respect to a claim and must provide a pharmacy with a notice regarding the procedure, in writing or electronically, prior to conducting an audit of the pharmacy's claims;

(2) May not conduct an audit of a claim more than twenty-four months after the date the claim was adjudicated by the entity;

(3) Must give at least fifteen days' advance written notice of an on-site audit to the pharmacy or corporate headquarters of the pharmacy;

(4) May not conduct an on-site audit during the first five days of any month without the pharmacy's consent;

(5) Must conduct the audit in consultation with a pharmacist who is licensed by this or another state if the audit involves clinical or professional judgment;

(6) May not conduct an on-site audit of more than two hundred fifty unique prescriptions of a pharmacy in any twelve-month period except in cases of alleged fraud;

(7) May not conduct more than one on-site audit of a pharmacy in any twelve-month period;

(8) Must audit each pharmacy under the same standards and parameters that the entity uses to audit other similarly situated pharmacies;

(9) Must pay any outstanding claims of a pharmacy no more than forty-five days after the earlier of the date all appeals are concluded or the date a final report is issued under section 8(3) of this act;

(10) May not include dispensing fees or interest in the amount of any overpayment assessed on a claim unless the overpaid claim was for a prescription that was not filled correctly;

(11) May not recoup costs associated with:

(a) Clerical errors; or

(b) Other errors that do not result in financial harm to the entity or a consumer; and

(12) May not charge a pharmacy for a denied or disputed claim until the audit and the appeals procedure established under subsection (1) of this section are final.

**NEW SECTION. Sec. 5.** An entity's finding that a claim was incorrectly presented or paid must be based on identified transactions and not based on probability sampling, extrapolation, or other means that project an error using the number of patients served who have a similar diagnosis or the number of similar prescriptions or refills for similar drugs.

**NEW SECTION. Sec. 6.** An entity that contracts with an independent third party to conduct audits may not:

(1) Agree to compensate the independent third party based on a percentage of the amount of overpayments recovered; or



FIFTY SEVENTH DAY, MARCH 10, 2014

2014 REGULAR SESSION

(2) Disclose information obtained during an audit except to the contracting entity, the pharmacy subject to the audit, or the holder of the policy or certificate of insurance that paid the claim.

**NEW SECTION. Sec. 7.** For purposes of sections 3 through 9 of this act, an entity, or an independent third party that contracts with an entity to conduct audits, must allow as evidence of validation of a claim:

(1) An electronic or physical copy of a valid prescription if the prescribed drug was, within fourteen days of the dispensing date:

- (a) Picked up by the patient or the patient's designee;
- (b) Delivered by the pharmacy to the patient; or

(c) Sent by the pharmacy to the patient using the United States postal service or other common carrier;

(2) Point of sale electronic register data showing purchase of the prescribed drug, medical supply, or service by the patient or the patient's designee; or

(3) Electronic records, including electronic beneficiary signature logs, electronically scanned and stored patient records maintained at or accessible to the audited pharmacy's central operations, and any other reasonably clear and accurate electronic documentation that corresponds to a claim.

**NEW SECTION. Sec. 8.** (1)(a) After conducting an audit, an entity must provide the pharmacy that is the subject of the audit with a preliminary report of the audit. The preliminary report must be received by the pharmacy no later than forty-five days after the date on which the audit was completed and must be sent:

- (i) By mail or common carrier with a return receipt requested; or
- (ii) Electronically with electronic receipt confirmation.

(b) An entity shall provide a pharmacy receiving a preliminary report under this subsection no fewer than forty-five days after receiving the report to contest the report or any findings in the report in accordance with the appeals procedure established under section 4(1) of this act and to provide additional documentation in support of the claim. The entity shall consider a reasonable request for an extension of time to submit documentation to contest the report or any findings in the report.

(2) If an audit results in the dispute or denial of a claim, the entity conducting the audit shall allow the pharmacy to resubmit the claim using any commercially reasonable method, including facsimile, mail, or electronic mail.

(3) An entity must provide a pharmacy that is the subject of an audit with a final report of the audit no later than sixty days after the later of the date the preliminary report was received or the date the pharmacy contested the report using the appeals procedure established under section 4(1) of this act. The final report must include a final accounting of all moneys to be recovered by the entity.

(4) Recoupment of disputed funds from a pharmacy by an entity or repayment of funds to an entity by a pharmacy, unless otherwise agreed to by the entity and the pharmacy, shall occur after the audit and the appeals procedure established under section 4(1) of this act are final. If the identified discrepancy for an individual audit exceeds forty thousand dollars, any future payments to the pharmacy may be withheld by the entity until the audit and the appeals procedure established under section 4(1) of this act are final.

**NEW SECTION. Sec. 9.** Sections 3 through 9 of this act do not:

(1) Preclude an entity from instituting an action for fraud against a pharmacy;

(2) Apply to an audit of pharmacy records when fraud or other intentional and willful misrepresentation is indicated by physical review, review of claims data or statements, or other investigative methods; or

(3) Apply to a state agency that is conducting audits or a person that has contracted with a state agency to conduct audits of

pharmacy records for prescription drugs paid for by the state medical assistance program.

**NEW SECTION. Sec. 10.** (1) As used in this section:

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

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

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

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

(e) "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 there is 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 available for purchase by pharmacies in this state from national or regional wholesalers;

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

**NEW SECTION. Sec. 11.** Sections 1 through 10 of this act constitute a new chapter in Title 19 RCW."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Conway moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6137.

Senator Conway spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Conway that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6137.

The motion by Senator Conway carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6137 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6137, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6137, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

ENGROSSED SUBSTITUTE SENATE BILL NO. 6137, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 6, 2014

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5977 with the following amendment(s): 5977-S AMH BFS H4328.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 48.110.020 and 2013 c 117 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Administrator" means the person who is responsible for the administration of the service contracts, the service contracts plan, or the protection product guarantees.

(2) "Commissioner" means the insurance commissioner of this state.

(3) "Consumer" means an individual who buys any tangible personal property that is primarily for personal, family, or household use.

(4) "Home heating fuel service contract" means a contract or agreement for a separately stated consideration for a specific duration to perform the repair, replacement, or maintenance of a home heating fuel supply system including the fuel tank and all visible pipes, caps, lines, and associated parts or the indemnification for repair, replacement, or maintenance for operational or structural failure due to a defect in materials or workmanship, or normal wear and tear.

(5) "Incidental costs" means expenses specified in the guarantee incurred by the protection product guarantee holder related to damages to other property caused by the failure of the protection product to perform as provided in the guarantee. "Incidental costs" may include, without limitation, insurance policy deductibles, rental vehicle charges, the difference between the actual value of the stolen vehicle at the time of theft and the cost of a replacement vehicle, sales taxes, registration fees, transaction fees, and mechanical inspection fees. Incidental costs may be paid under the provisions of the protection product guarantee in either a fixed amount specified in the protection product guarantee or sales agreement, or by the use of a formula itemizing specific incidental costs incurred by the protection product guarantee holder to be paid.

(6) "Maintenance agreement" means a contract of limited duration that provides for scheduled maintenance only.

(7) "Motor vehicle" means any vehicle subject to registration under chapter 46.16A RCW.

(8) "Person" means an individual, partnership, corporation, incorporated or unincorporated association, joint stock company, reciprocal insurer, syndicate, or any similar entity or combination of entities acting in concert.

(9) "Premium" means the consideration paid to an insurer for a reimbursement insurance policy.

(10) "Protection product" means any ~~(product)~~ protective chemical, substance, device, or system offered or sold with a guarantee to repair or replace another product or pay incidental costs upon the failure of the product to perform pursuant to the terms of the protection product guarantee. Protection product does not include fuel additives, oil additives, or other chemical products applied to the engine, transmission, or fuel system of a motor vehicle.

(11) "Protection product guarantee" means a written agreement by a protection product guarantee provider to repair or replace another product or pay incidental costs upon the failure of the protection product to perform pursuant to the terms of the protection product guarantee. The reimbursement of incidental costs promised under a protection product guarantee must be tied to the purchase of a physical product that is formulated or designed to make the specified loss or damage from a specific cause less likely to occur.

(12) "Protection product guarantee holder" means a person who is the purchaser or permitted transferee of a protection product guarantee.

(13) "Protection product guarantee provider" means a person who is contractually obligated to the protection product guarantee holder under the terms of the protection product guarantee. Protection product guarantee provider does not include an authorized insurer providing a reimbursement insurance policy.

(14) "Protection product seller" means the person who sells the protection product to the consumer.

(15) "Provider fee" means the consideration paid by a consumer for a service contract.

(16) "Reimbursement insurance policy" means a policy of insurance that is issued to a service contract provider or a protection product guarantee provider to provide reimbursement to the service

FIFTY SEVENTH DAY, MARCH 10, 2014

2014 REGULAR SESSION

contract provider or the protection product guarantee provider or to pay on behalf of the service contract provider or the protection product guarantee provider all contractual obligations incurred by the service contract provider or the protection product guarantee provider under the terms of the insured service contracts or protection product guarantees issued or sold by the service contract provider or the protection product guarantee provider.

(17) "Road hazard" means a hazard that is encountered while driving a motor vehicle. Road hazards may include but are not limited to potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or composite scraps.

(18)(a) "Service contract" means a contract or agreement entered into at any time for consideration over and above the lease or purchase price of the property for any specific duration to perform the repair, replacement, or maintenance of property or the indemnification for repair, replacement, or maintenance for operational or structural failure due to a defect in materials or workmanship(,) or normal wear and tear. Service contracts may provide for the repair, replacement, or maintenance of property for damage resulting from power surges and accidental damage from handling, with or without additional provision for incidental payment of indemnity under limited circumstances, including towing, rental, emergency road services, or other expenses relating to the failure of the product or of a component part thereof.

(b) "Service contract" also includes a contract or agreement sold for separately stated consideration for a specific duration to perform any one or more of the following services:

(i) The repair or replacement of tires and/or wheels damaged as a result of coming into contact with road hazards ((including but not limited to potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or composite scraps)). However, a contract or agreement meeting the definition under this subsection ((47)) (18)(b) in which the party obligated to perform is either a tire or wheel manufacturer or a motor vehicle manufacturer is exempt from the requirements of this chapter;

(ii) The removal of dents, dings, or creases on a motor vehicle that can be repaired using the process of paintless dent removal without affecting the existing paint finish and without replacing vehicle body panels, sanding, bonding, or painting;

(iii) The repair of chips or cracks in, or the replacement of, motor vehicle windshields as a result of damage caused by road hazards;

(iv) The replacement of a motor vehicle key or key fob in the event that the key or key fob becomes inoperable or is lost or stolen;

(v) Services provided pursuant to a protection product guarantee; and

(vi) Other services approved by rule of the commissioner that are not inconsistent with the provisions of this chapter.

(c) "Service contract" does not include coverage for:

(i) Repair or replacement due to damage to the interior surfaces or to the exterior paint or finish of a vehicle. However, coverage for these types of damage may be offered in connection with the sale of a protection product as defined in this section; or

(ii) Fuel additives, oil additives, or other chemical products applied to the engine, transmission, or fuel system of a motor vehicle.

~~((18))~~ (19) "Service contract holder" or "contract holder" means a person who is the purchaser or holder of a service contract.

~~((19))~~ (20) "Service contract provider" means a person who is contractually obligated to the service contract holder under the terms of the service contract.

~~((20))~~ (21) "Service contract seller" means the person who sells the service contract to the consumer.

~~((21))~~ (22) "Warranty" means a warranty made solely by the manufacturer, importer, or seller of property or services without

consideration; that is not negotiated or separated from the sale of the product and is incidental to the sale of the product; and that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor, or other remedial measures, such as repair or replacement of the property or repetition of services.

**Sec. 2.** RCW 48.110.030 and 2011 c 47 s 16 are each amended to read as follows:

(1) A person may not act as, or offer to act as, or hold himself or herself out to be a service contract provider in this state, nor may a service contract be sold to a consumer in this state, unless the service contract provider has a valid registration as a service contract provider issued by the commissioner.

(2) Applicants to be a service contract provider must make an application to the commissioner upon a form to be furnished by the commissioner. The application must include or be accompanied by the following information and documents:

(a) All basic organizational documents of the service contract provider, including any articles of incorporation, articles of association, partnership agreement, trade name certificate, trust agreement, shareholder agreement, bylaws, and other applicable documents, and all amendments to those documents;

(b) The identities of the service contract provider's executive officer or officers directly responsible for the service contract provider's service contract business, and, if more than fifty percent of the service contract provider's gross revenue is derived from the sale of service contracts, the identities of the service contract provider's directors and stockholders having beneficial ownership of ten percent or more of any class of securities;

(c) Audited annual financial statements or other financial reports acceptable to the commissioner for the two most recent years which prove that the applicant is solvent and any information the commissioner may require in order to review the current financial condition of the applicant. If the service contract provider is relying on RCW 48.110.050(2)(c) to assure the faithful performance of its obligations to service contract holders, then the audited financial statements of the service contract provider's parent company must also be filed. In lieu of submitting audited financial statements, a service contract provider relying on RCW 48.110.050(2)(a) or 48.110.075(2)(a) to assure the faithful performance of its obligations to service contract holders may comply with the requirements of this subsection (2)(c) by submitting annual financial statements of the applicant that are certified as accurate by two or more officers of the applicant;

(d) An application fee of two hundred fifty dollars, which must be deposited into the general fund; and

(e) Any other pertinent information required by the commissioner.

(3) Each registered service contract provider must appoint the commissioner as the service contract provider's attorney to receive service of legal process issued against the service contract provider in this state upon causes of action arising within this state. Service upon the commissioner as attorney constitutes effective legal service upon the service contract provider.

(a) With the appointment the service contract provider must designate the person to whom the commissioner must forward legal process so served upon him or her.

(b) The appointment is irrevocable, binds any successor in interest or to the assets or liabilities of the service contract provider, and remains in effect for as long as there could be any cause of action against the service contract provider arising out of any of the service contract provider's contracts or obligations in this state.

(c) The service of process must be accomplished and processed in the manner prescribed under RCW 48.02.200.

(4) The commissioner may refuse to issue a registration if the commissioner determines that the service contract provider, or any

individual responsible for the conduct of the affairs of the service contract provider under subsection (2)(b) of this section, is not competent, trustworthy, financially responsible, or has had a license as a service contract provider or similar license denied or revoked for cause by any state.

(5) A registration issued under this section is valid, unless surrendered, suspended, or revoked by the commissioner, or not renewed for so long as the service contract provider continues in business in this state and remains in compliance with this chapter. A registration is subject to renewal annually on the first day of July upon application of the service contract provider and payment of a fee of two hundred dollars, which must be deposited into the general fund. If not so renewed, the registration expires on the June 30th next preceding.

(6) A service contract provider must keep current the information required to be disclosed in its registration under this section by reporting all material changes or additions within thirty days after the end of the month in which the change or addition occurs."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Hobbs moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5977.

Senator Hobbs spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Hobbs that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5977.

The motion by Senator Hobbs carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5977 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5977, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5977, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

SUBSTITUTE SENATE BILL NO. 5977, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 5, 2014

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6095 with the following amendment(s): 6095-S AMH ELHS H4358.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.43.842 and 2007 c 387 s 4 are each amended to read as follows:

(1)(a) The secretary of social and health services and the secretary of health shall adopt additional requirements for the licensure or relicensure of agencies, facilities, and licensed individuals who provide care and treatment to vulnerable adults, including nursing pools registered under chapter 18.52C RCW. These additional requirements shall ensure that any person associated with a licensed agency or facility having unsupervised access with a vulnerable adult shall not be the respondent in an active protective order under RCW 74.34.130, nor have been: (i) Convicted of a crime against persons as defined in RCW 43.43.830, except as provided in this section; (ii) convicted of crimes relating to financial exploitation as defined in RCW 43.43.830, except as provided in this section; or (iii) found in any disciplinary board final decision to have abused a vulnerable adult under RCW 43.43.830.

(b) A person associated with a licensed agency or facility who has unsupervised access with a vulnerable adult shall make the disclosures specified in RCW 43.43.834(2). The person shall make the disclosures in writing, sign, and swear to the contents under penalty of perjury. The person shall, in the disclosures, specify all crimes against children or other persons, all crimes relating to financial exploitation, and all crimes relating to drugs as defined in RCW 43.43.830, committed by the person.

(2) The rules adopted under this section shall permit the licensee to consider the criminal history of an applicant for employment in a licensed facility when the applicant has one or more convictions for a past offense and:

(a) The offense was simple assault, assault in the fourth degree, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(b) The offense was prostitution, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(c) The offense was theft in the third degree, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(d) The offense was theft in the second degree, or the same offense as it may be renamed, and five or more years have passed between the most recent conviction and the date of application for employment;

(e) The offense was forgery, or the same offense as it may be renamed, and five or more years have passed between the most recent conviction and the date of application for employment;

(f) The department of social and health services reviewed the employee's otherwise disqualifying criminal history through the department of social and health services' background assessment review team process conducted in 2002, and determined that such employee could remain in a position covered by this section; or

(g) The otherwise disqualifying conviction or disposition has been the subject of a pardon, annulment, or other equivalent procedure.

The offenses set forth in (a) through ~~((e))~~ (g) of this subsection do not automatically disqualify an applicant from employment by a licensee. Nothing in this section may be construed to require the employment of any person against a licensee's judgment.

(3) In consultation with law enforcement personnel, the secretary of social and health services and the secretary of health shall investigate, or cause to be investigated, the conviction record and the protection proceeding record information under this chapter

FIFTY SEVENTH DAY, MARCH 10, 2014

2014 REGULAR SESSION

of the staff of each agency or facility under their respective jurisdictions seeking licensure or relicensure. An individual responding to a criminal background inquiry request from his or her employer or potential employer shall disclose the information about his or her criminal history under penalty of perjury. The secretaries shall use the information solely for the purpose of determining eligibility for licensure or relicensure. Criminal justice agencies shall provide the secretaries such information as they may have and that the secretaries may require for such purpose.

**Sec. 2.** RCW 43.20A.710 and 2012 c 164 s 505 are each amended to read as follows:

(1) The secretary shall investigate the conviction records, pending charges and disciplinary board final decisions of:

(a) Any current employee or applicant seeking or being considered for any position with the department who will or may have unsupervised access to children, vulnerable adults, or individuals with mental illness or developmental disabilities. This includes, but is not limited to, positions conducting comprehensive assessments, financial eligibility determinations, licensing and certification activities, investigations, surveys, or case management; or for state positions otherwise required by federal law to meet employment standards;

(b) Individual providers who are paid by the state and providers who are paid by home care agencies to provide in-home services involving unsupervised access to persons with physical, mental, or developmental disabilities or mental illness, or to vulnerable adults as defined in chapter 74.34 RCW, including but not limited to services provided under chapter 74.39 or 74.39A RCW; and

(c) Individuals or businesses or organizations for the care, supervision, case management, or treatment of children, persons with developmental disabilities, or vulnerable adults, including but not limited to services contracted for under chapter 18.20, 70.127, 70.128, 72.36, or 74.39A RCW or Title 71A RCW.

(2) The secretary shall require a fingerprint-based background check through both the Washington state patrol and the federal bureau of investigation as provided in RCW 43.43.837. Unless otherwise authorized by law, the secretary shall use the information solely for the purpose of determining the character, suitability, and competence of the applicant.

(3) Except as provided in subsection (4) of this section, an individual provider or home care agency provider who has resided in the state less than three years before applying for employment involving unsupervised access to a vulnerable adult as defined in chapter 74.34 RCW must be fingerprinted for the purpose of investigating conviction records through both the Washington state patrol and the federal bureau of investigation. This subsection applies only with respect to the provision of in-home services funded by medicaid personal care under RCW 74.09.520, community options program entry system waiver services under RCW 74.39A.030, or chore services under RCW 74.39A.110. However, this subsection does not supersede RCW 74.15.030(2)(b).

(4) Long-term care workers, as defined in RCW 74.39A.009, who are hired after January 7, 2012, are subject to background checks under RCW 74.39A.056, except that the department may require a background check at any time under RCW 43.43.837. For the purposes of this subsection, "background check" includes, but is not limited to, a fingerprint check submitted for the purpose of investigating conviction records through both the Washington state patrol and the federal bureau of investigation.

(5) An individual provider or home care agency provider hired to provide in-home care for and having unsupervised access to a vulnerable adult as defined in chapter 74.34 RCW must have no conviction for a disqualifying crime under RCW 43.43.830 and 43.43.842. An individual or home care agency provider must also have no conviction for a crime relating to drugs as defined in RCW

43.43.830. This subsection applies only with respect to the provision of in-home services funded by medicaid personal care under RCW 74.09.520, community options program entry system waiver services under RCW 74.39A.030, or chore services under RCW 74.39A.110.

(6) The secretary shall provide the results of the state background check on long-term care workers, including individual providers, to the persons hiring them or to their legal guardians, if any, for their determination of the character, suitability, and competence of the applicants. If the person elects to hire or retain an individual provider after receiving notice from the department that the applicant has a conviction for an offense that would disqualify the applicant from having unsupervised access to persons with physical, mental, or developmental disabilities or mental illness, or to vulnerable adults as defined in chapter 74.34 RCW, then the secretary shall deny payment for any subsequent services rendered by the disqualified individual provider.

(7) Criminal justice agencies shall provide the secretary such information as they may have and that the secretary may require for such purpose.

(8) Any person whose criminal history would otherwise disqualify the person under this section from a position which will or may have unsupervised access to children, vulnerable adults, or persons with mental illness or developmental disabilities shall not be disqualified if the department of social and health services reviewed the person's otherwise disqualifying criminal history through the department of social and health services' background assessment review team process conducted in 2002 and determined that such person could remain in a position covered by this section, or if the otherwise disqualifying conviction or disposition has been the subject of a pardon, annulment, or other equivalent procedure.

**NEW SECTION. Sec. 3.** A new section is added to chapter 74.15 RCW to read as follows:

If an agency operating under contract with the children's administration chooses to hire an individual that would be precluded from employment with the department based on a disqualifying crime or negative action, the department and its officers and employees have no liability arising from any injury or harm to a child or other department client that is attributable to such individual.

**Sec. 4.** RCW 74.13.700 and 2013 c 162 s 2 are each amended to read as follows:

(1) In determining the character, suitability, and competence of an individual, the department may not:

(a) Deny or delay a license or approval of unsupervised access to children to an individual solely because of a crime or civil infraction involving the individual or entity revealed in the background check process that ~~((is not on the secretary's list of crimes and negative actions and is not related))~~ does not fall within the categories of disqualifying crimes described in the adoption and safe families act of 1997 or does not relate directly to child safety, permanence, or well-being; or

(b) Delay the issuance of a license or approval of unsupervised access to children by requiring the individual to obtain records relating to a crime or civil infraction revealed in the background check process that ~~((is not on the secretary's list of crimes and negative actions and is not related))~~ does not fall within the categories of disqualifying crimes described in the adoption and safe families act of 1997 or does not relate directly to child safety, permanence, or well-being ~~((and is not a permanent disqualifier pursuant to department rule)).~~

(2) If the department determines that an individual does not possess the character, suitability, or competence to provide care or have unsupervised access to a child, it must provide the reasons for its decision in writing with copies of the records or documents

related to its decision to the individual within ten days of making the decision.

(3) For purposes of this section, "individual" means a relative as defined in RCW 74.15.020(2)(a), an "other suitable person" under chapter 13.34 RCW, a person pursuing licensing as a foster parent, or a person employed or seeking employment by a business or organization licensed by the department or with whom the department has a contract to provide care, supervision, case management, or treatment of children in the care of the department. "Individual" does not include long-term care workers defined in RCW 74.39A.009(17)(a) whose background checks are conducted as provided in RCW 74.39A.056.

(4) The department or its officers, agents, or employees may not be held civilly liable based upon its decision to grant or deny unsupervised access to children if the background information it relied upon at the time the decision was made did not indicate that child safety, permanence, or well-being would be a concern."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator O'Ban moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6095.

Senator O'Ban spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator O'Ban that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6095.

The motion by Senator O'Ban carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6095 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6095, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6095, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

SUBSTITUTE SENATE BILL NO. 6095, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 5, 2014

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6145 with the following amendment(s): 6145-S AMH GOE H4367.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The *Ostrea lurida* is the only oyster native to Washington state.

NEW SECTION. Sec. 2. A new section is added to chapter 1.20 RCW to read as follows:

The *Ostrea lurida* is hereby designated the official oyster of the state of Washington. This native oyster species plays an important role in the history and culture that surrounds shellfish in Washington state and along the west coast of the United States. Some of the common and historic names used for this species are Native, Western, Shoalwater, and Olympia."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Hatfield moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6145.

Senator Hatfield spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Hatfield that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6145.

The motion by Senator Hatfield carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6145 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6145, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6145, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Voting nay: Senator Baumgartner

SUBSTITUTE SENATE BILL NO. 6145, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 6, 2014

MR. PRESIDENT:

The House passed SENATE BILL NO. 6128 with the following amendment(s): 6128 AMH ENGR H4416.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. Students in public schools are bringing more health conditions to school at the same time school

FIFTY SEVENTH DAY, MARCH 10, 2014

2014 REGULAR SESSION

districts are reducing nursing services. As a result, school districts are becoming more dependent upon unlicensed, minimally trained, and many times unwilling classified employees to provide these services.

Over the years, unlicensed employees have sought and received legislative approval for protections from employer reprisal if they refuse to deliver nursing services and liability protections if they provide nursing services that harm a student. It is clear that unlicensed employees will be expected to deliver new medications and nursing services not currently recognized in state law to students in the future.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.210 RCW to read as follows:

(1) Beginning July 1, 2014, a school district employee not licensed under chapter 18.79 RCW who is asked to administer medications or perform nursing services not previously recognized in law shall at the time he or she is asked to administer the medication or perform the nursing service file, without coercion by the employer, a voluntary written, current, and unexpired letter of intent stating the employee's willingness to administer the new medication or nursing service. It is understood that the letter of intent will expire if the conditions of acceptance are substantially changed. If a school employee who is not licensed under chapter 18.79 RCW chooses not to file a letter under this section, the employee is not subject to any employer reprisal or disciplinary action for refusing to file a letter.

(2) In the event a school employee provides the medication or service to a student in substantial compliance with (a) rules adopted by the state nursing care quality assurance commission and the instructions of a registered nurse or advanced registered nurse practitioner issued under such rules, and (b) written policies of the school district, then the employee, the employee's school district or school of employment, and the members of the governing board and chief administrator thereof are not liable in any criminal action or for civil damages in his or her individual, marital, governmental, corporate, or other capacity as a result of providing the medication or service.

(3) The board of directors shall designate a professional person licensed under chapter 18.71, 18.57, or 18.79 RCW as it applies to registered nurses and advanced registered nurse practitioners to consult and coordinate with the student's parents and health care provider, and train and supervise the appropriate school district personnel in proper procedures to ensure a safe, therapeutic learning environment. School employees must receive the training provided under this subsection before they are authorized to deliver the service or medication. Such training must be provided, where necessary, on an ongoing basis to ensure that the proper procedures are not forgotten because the services or medication are delivered infrequently.

**Sec. 3.** RCW 4.24.300 and 2004 c 87 s 1 are each amended to read as follows:

(1) Any person, including but not limited to a volunteer provider of emergency or medical services, who without compensation or the expectation of compensation renders emergency care at the scene of an emergency or who participates in transporting, not for compensation, therefrom an injured person or persons for emergency medical treatment shall not be liable for civil damages resulting from any act or omission in the rendering of such emergency care or in transporting such persons, other than acts or omissions constituting gross negligence or willful or wanton misconduct. Any person rendering emergency care during the course of regular employment and receiving compensation or expecting to receive compensation for rendering such care is excluded from the protection of this subsection.

(2) Any licensed health care provider regulated by a disciplining authority under RCW 18.130.040 in the state of Washington who, without compensation or the expectation of compensation, provides health care services at a community health care setting is not liable for civil damages resulting from any act or omission in the rendering of such care, other than acts or omissions constituting gross negligence or willful or wanton misconduct.

(3) For purposes of subsection (2) of this section, "community health care setting" means an entity that provides health care services and:

(a) Is a clinic operated by a public entity or private tax exempt corporation, except a clinic that is owned, operated, or controlled by a hospital licensed under chapter 70.41 RCW unless the hospital-based clinic either:

(i) Maintains and holds itself out to the public as having established hours on a regular basis for providing free health care services to members of the public to the extent that care is provided without compensation or expectation of compensation during those established hours; or

(ii) Is participating, through a written agreement, in a community-based program to provide access to health care services for uninsured persons, to the extent that:

(A) Care is provided without compensation or expectation of compensation to individuals who have been referred for care through that community-based program; and

(B) The health care provider's participation in the community-based program is conditioned upon his or her agreement to provide health services without expectation of compensation;

(b) Is a for-profit corporation that maintains and holds itself out to the public as having established hours on a regular basis for providing free health care services to members of the public to the extent that care is provided without compensation or expectation of compensation during those established hours; or

(c) Is a for-profit corporation that is participating, through a written agreement, in a community-based program to provide access to health care services for uninsured persons, to the extent that:

(i) Care is provided without compensation or expectation of compensation to individuals who have been referred for care through that community-based program; and

(ii) The health care provider's participation in the community-based program is conditioned upon his or her agreement to provide health services without expectation of compensation.

(4) Any school district employee not licensed under chapter 18.79 RCW who renders emergency care at the scene of an emergency during an officially designated school activity or who participates in transporting therefrom an injured person or persons for emergency medical treatment shall not be liable for civil damages resulting from any act or omission in the rendering of such emergency care or in transporting such persons, other than acts or omissions constituting gross negligence or willful or wanton misconduct."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Litzow moved that the Senate concur in the House amendment(s) to Senate Bill No. 6128.

Senator Litzow spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Litzow that the Senate concur in the House amendment(s) to Senate Bill No. 6128.

The motion by Senator Litzow carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6128 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 6128, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6128, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yeas: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dandel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

SENATE BILL NO. 6128, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 5, 2014

MR. PRESIDENT:

The House passed SENATE BILL NO. 6208 with the following amendment(s): 6208 AMH CDHT H4333.1

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** The legislature finds and declares that the practice of persons using the allure of untapped benefits from the United States department of veterans affairs to market products and services substantially affects the public interest. This practice may impact the ability of veterans or their surviving spouses to appropriately plan their finances or care. The legislature further finds that the lack of regulation of persons who provide advice related to veterans' benefits is inadequate to address unfair and deceptive practices that exist in the marketplace and has contributed to the unauthorized practice of law and the use and marketing of financial planning options that are potentially detrimental to the veteran, their spouse, and family. It is the intent of the legislature, through this chapter, to restrict how individuals receive compensation and remuneration for providing assistance with veterans' benefit-related services and to encourage certain disclosures from individuals offering veterans' benefit-related services.

**NEW SECTION. Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Compensation" means money, property, or anything else of value, which includes, but is not limited to, exclusive arrangements or agreements for the provision of services or the purchase of products.

(2) "Person" includes, where applicable, natural persons, corporations, trusts, unincorporated associations, and partnerships.

(3) "Trade or commerce" includes the marketing or sale of assets, goods, or services, or any commerce directly or indirectly affecting the people of the state of Washington.

(4) "Veterans' benefit matter" means any preparation, presentation, or prosecution of a claim affecting a person who has filed or has expressed an intention to file an application for determination of payment, service, commodity, function, or status, entitlement to which is determined under laws administered by the United States department of veterans affairs or the Washington state department of veterans affairs pertaining to veterans, dependents, and survivors.

**NEW SECTION. Sec. 3.** A person may not engage in the following acts or practices:

(1) Receiving compensation for advising or assisting another person with a veterans' benefit matter, except as permitted under Title 38 of the United States Code;

(2) Using financial or other personal information gathered in order to prepare documents for, or otherwise represent the interests of, another in a veterans' benefit matter for purposes of trade or commerce;

(3) Receiving compensation for referring another person to a person accredited by the United States department of veterans affairs;

(4) Representing, either directly or by implication, either orally or in writing, that the receipt of a certain level of veterans' benefits is guaranteed.

**NEW SECTION. Sec. 4.** (1) It is unlawful for any person to advertise or promote any event, presentation, seminar, workshop, or other public gathering regarding veterans' benefits or entitlements that does not include the following disclosure: "This event is not sponsored by, or affiliated with, the United States Department of Veterans Affairs, the Washington State Department of Veterans Affairs, or any other congressionally chartered or recognized organization of honorably discharged members of the Armed Forces of the United States or any of their auxiliaries. Products or services that may be discussed at this event are not necessarily endorsed by those organizations. You may qualify for benefits other than or in addition to the benefits discussed at this event."

(2) The disclosure required by subsection (1) of this section must be in the same type size and font as the term "veteran" or any variation of that term as used in the event advertisement or promotional materials.

(3) The disclosure required by subsection (1) of this section must be disseminated, both orally and in writing, at the beginning of any event, presentation, seminar, workshop, or other public gathering regarding veterans' benefits or entitlements.

(4) The disclosure required by subsection (1) of this section does not apply where the United States department of veterans affairs, the Washington state department of veterans affairs, or any other congressionally chartered or recognized organization of honorably discharged members of the armed forces of the United States or any of their auxiliaries have granted written permission to the advertiser or promoter for the use of its name, symbol, or insignia to advertise or promote such events, presentations, seminars, workshops, or other public gatherings. The disclosure required by subsection (1) of this section also does not apply where the event, presentation, seminar, workshop, or gathering is part of an accredited continuing legal education course.

**NEW SECTION. Sec. 5.** Nothing in this chapter applies to officers, employees, or volunteers of the state, of any county, city, or other political subdivision, or of a federal agency of the United States, who are acting in their official capacity.

**NEW SECTION. Sec. 6.** The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and



FIFTY SEVENTH DAY, MARCH 10, 2014

2014 REGULAR SESSION

an unfair method of competition for purposes of applying the consumer protection act, chapter 19.86 RCW.

NEW SECTION. Sec. 7. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 8. This chapter may be known and cited as the "pension poacher prevention act."

NEW SECTION. Sec. 9. Sections 1 through 6 and 8 of this act constitute a new chapter in Title 19 RCW."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Holmquist Newbry moved that the Senate concur in the House amendment(s) to Senate Bill No. 6208.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Holmquist Newbry that the Senate concur in the House amendment(s) to Senate Bill No. 6208.

The motion by Senator Holmquist Newbry carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6208 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 6208, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6208, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

SENATE BILL NO. 6208, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 6, 2014

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6242 with the following amendment(s): 6242-S.E AMH ED H4417.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28A.305.141 and 2009 c 543 s 2 are each amended to read as follows:

(1) In addition to waivers authorized under RCW 28A.305.140 and 28A.655.180, the state board of education may grant waivers from the requirement for a one hundred eighty-day school year

under RCW 28A.150.220 (~~and 28A.150.250~~) to school districts that propose to operate one or more schools on a flexible calendar for purposes of economy and efficiency as provided in this section. The requirement under RCW 28A.150.220 that school districts offer (~~an annual average instructional hour offering of at least one thousand~~) minimum instructional hours shall not be waived.

(2) A school district seeking a waiver under this section must submit an application that includes:

(a) A proposed calendar for the school day and school year that demonstrates how the instructional hour requirement will be maintained;

(b) An explanation and estimate of the economies and efficiencies to be gained from compressing the instructional hours into fewer than one hundred eighty days;

(c) An explanation of how monetary savings from the proposal will be redirected to support student learning;

(d) A summary of comments received at one or more public hearings on the proposal and how concerns will be addressed;

(e) An explanation of the impact on students who rely upon free and reduced-price school child nutrition services and the impact on the ability of the child nutrition program to operate an economically independent program;

(f) An explanation of the impact on employees in education support positions and the ability to recruit and retain employees in education support positions;

(g) An explanation of the impact on students whose parents work during the missed school day; and

(h) Other information that the state board of education may request to assure that the proposed flexible calendar will not adversely affect student learning.

(3) The state board of education shall adopt criteria to evaluate waiver requests. No more than five districts may be granted waivers. Waivers may be granted for up to three years. After each school year, the state board of education shall analyze empirical evidence to determine whether the reduction is affecting student learning. If the state board of education determines that student learning is adversely affected, the school district shall discontinue the flexible calendar as soon as possible but not later than the beginning of the next school year after the determination has been made. All waivers expire August 31, ~~((2014))~~ 2017.

(a) Two of the five waivers granted under this subsection shall be granted to school districts with student populations of less than one hundred fifty students.

(b) Three of the five waivers granted under this subsection shall be granted to school districts with student populations of between one hundred fifty-one and five hundred students.

(4) ((The state board of education shall examine the waivers granted under this section and make a recommendation to the education committees of the legislature by December 15, 2013, regarding whether the waiver program should be continued, modified, or allowed to terminate. This recommendation should focus on whether the program resulted in improved student learning as demonstrated by empirical evidence. Such evidence includes, but is not limited to: Improved scores on the Washington assessment of student learning, results of the dynamic indicators of basic early literacy skills, student grades, and attendance.

(5))) This section expires August 31, ((2014)) 2017."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Litzow moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6242.

Senator Litzow spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Litzow that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6242.

The motion by Senator Litzow carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6242 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6242, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6242, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

ENGROSSED SUBSTITUTE SENATE BILL NO. 6242, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 6, 2014

MR. PRESIDENT:

The House passed SENATE BILL NO. 6424 with the following amendment(s): 6424 AMH ED H4415.1

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** (1) The legislature finds that:

(a) The study of world languages in elementary and secondary schools should be encouraged because it contributes to students' cognitive development and to the national economy and security;

(b) Proficiency in multiple languages enables Washington to participate more effectively in the current global political, social, and economic context;

(c) The benefits to employers of having employees who are fluent in more than one language are clear: Increased access to expanding markets, better service of customers' needs, and expanded trading opportunities with other countries; and

(d) Protecting the state's rich heritage of multiple cultures and languages, as well as building trust and understanding across the multiple cultures and languages of diverse communities, requires multilingual communication skills.

(2) Therefore, the legislature's intent is to promote and recognize linguistic proficiency and cultural literacy in one or more world languages in addition to English through the establishment of a Washington state seal of biliteracy.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) The Washington state seal of biliteracy is established to recognize public high school graduates who have attained a high level of proficiency in speaking, reading, and writing in one or more world languages in addition to English. School districts are encouraged to award the seal of biliteracy to graduating high school students who meet the criteria established by the office of the superintendent of public instruction under this section. Participating school districts shall place a notation on a student's high school diploma and high school transcript indicating that the student has earned the seal.

(2) The office of the superintendent of public instruction shall adopt rules establishing criteria for award of the Washington state seal of biliteracy. The criteria must require a student to demonstrate proficiency in English by meeting state high school graduation requirements in English, including through state assessments and credits, and proficiency in one or more world languages other than English. The criteria must permit a student to demonstrate proficiency in another world language through multiple methods including nationally or internationally recognized language proficiency tests and competency-based world language credits awarded under the model policy adopted by the Washington state school directors' association.

(3) For the purposes of this section, a world language other than English must include American sign language and Native American languages.

**Sec. 3.** RCW 28A.230.125 and 2011 1st sp.s. c 11 s 130 are each amended to read as follows:

(1) The superintendent of public instruction, in consultation with the four-year institutions as defined in RCW 28B.76.020, the state board for community and technical colleges, and the workforce training and education coordinating board, shall develop for use by all public school districts a standardized high school transcript. The superintendent shall establish clear definitions for the terms "credits" and "hours" so that school programs operating on the quarter, semester, or trimester system can be compared.

(2) The standardized high school transcript shall include a notation of whether the student has earned a certificate of individual achievement or a certificate of academic achievement.

(3) The standardized high school transcript may include a notation of whether the student has earned the Washington state seal of biliteracy established under section 2 of this act.

**NEW SECTION. Sec. 4.** By December 1, 2017, the office of the superintendent of public instruction shall submit a report to the education committees of the legislature that compares the number of students awarded the Washington state seal of biliteracy in the previous two school years and the languages spoken by those students, to the number of students enrolled or previously enrolled in the transitional bilingual instruction program and the languages spoken by those students. The office of the superintendent of public instruction shall also report the methods used by students to demonstrate proficiency for the Washington state seal of biliteracy, and describe how the office of the superintendent of public instruction plans to increase the number of possible methods for students to demonstrate proficiency, particularly in world languages that are not widely spoken."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Roach moved that the Senate concur in the House amendment(s) to Senate Bill No. 6424.

Senator Roach spoke in favor of the motion.

FIFTY SEVENTH DAY, MARCH 10, 2014

2014 REGULAR SESSION

The President Pro Tempore declared the question before the Senate to be the motion by Senator Roach that the Senate concur in the House amendment(s) to Senate Bill No. 6424.

The motion by Senator Roach carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6424 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 6424, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6424, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dinsel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

SENATE BILL NO. 6424, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Billig, Senator Nelson was excused.

MESSAGE FROM THE HOUSE

March 6, 2014

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6431 with the following amendment(s): 6431-S AMH APPE H4443.1

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that according to the department of health, suicide is the second leading cause of death for Washington youth between the ages of ten and twenty-four. Suicide rates among Washington's youth remain higher than the national average. An increasing body of research shows an association between adverse childhood experiences such as trauma, violence, or abuse, and decreased student learning and achievement. Underserved youth populations in Washington who are not receiving access to state services continue to remain at risk for suicide.

**Sec. 2.** RCW 28A.300.288 and 2011 c 185 s 3 are each amended to read as follows:

(1) The office of the superintendent of public instruction shall work with state agency and community partners to ((develop pilot projects to)) assist schools in implementing youth suicide prevention activities, which may include the following:

(a) Training for school employees, parents, community members, and students in recognizing and responding to the signs of suicide;

(b) Partnering with local coalitions of community members interested in preventing youth suicide; and

(c) Responding to communities determined to be in crisis after a suicide or attempted suicide to prevent further instances of suicide.

(2) The office of the superintendent of public instruction, working with state and community partners, shall prioritize funding appropriated for subsection (1) of this section to communities identified as the highest risk.

**NEW SECTION. Sec. 3.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2014, in the omnibus appropriations act, this act is null and void."

Correct the title. and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Litzow moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6431.

Senator Litzow spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Litzow that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6431.

The motion by Senator Litzow carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6431 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6431, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6431, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dinsel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Excused: Senator Nelson

SUBSTITUTE SENATE BILL NO. 6431, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 6, 2014

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6436 with the following amendment(s): 6436-S.E AMH APPE H4442.1

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that while the college bound scholarship program was created in 2007, the first cohort of scholarship recipients entered institutions of higher education in 2013 and emerging data shows that the program is a success. However, the legislature further finds that the program faces long-term challenges. Therefore, the legislature intends to

create a work group to make recommendations to ensure the program is viable, productive, and effective.

**NEW SECTION. Sec. 2.** (1)(a) A college bound scholarship program work group is established. The work group shall consist of the following members:

(i) Two members of the house of representatives, with one member representing each of the major caucuses and appointed by the speaker of the house of representatives;

(ii) Two members of the senate, with one member representing each of the major caucuses and appointed by the president of the senate;

(iii) One representative of the four-year institutions of higher education as defined in RCW 28B.10.016, selected by the presidents of those institutions;

(iv) One representative of the state's community and technical college system, selected by the state board for community and technical colleges;

(v) One representative of a private, nonprofit higher education institution as defined in RCW 28B.07.020(4), selected by an association of independent nonprofit baccalaureate degree-granting institutions;

(vi) One representative from the student achievement council;

(vii) One representative from a college scholarship organization that is a private nonprofit corporation registered under Title 24 RCW and qualified as a tax-exempt entity under section 501(c)(3) of the federal internal revenue code, with expertise in managing scholarships and college advising;

(viii) One nonlegislative representative appointed by the governor; and

(ix) One representative from the middle school system.

(b) All members must be appointed by June 30, 2014.

(c) The work group shall appoint its own chair and vice chair and shall meet at least once but no more than five times in 2014.

(d) Legislative members of the work group shall serve without additional compensation, but shall be reimbursed in accordance with RCW 44.04.120 while attending meetings of the work group. Nonlegislative members of the work group may be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(2) The work group shall submit a report to the governor and the legislature by December 31, 2014, with recommendations for making the college bound scholarship program viable, including but not limited to funding.

(3) Staff support for the work group shall be jointly provided by senate committee services and the house of representatives office of program research, with the office of financial management presenting data as needed.

(4) This section expires July 1, 2015."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Bailey moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6436.

Senators Bailey and Frockt spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Bailey that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6436.

The motion by Senator Bailey carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6436 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6436, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6436, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Danel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist, Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Excused: Senator Nelson

ENGROSSED SUBSTITUTE SENATE BILL NO. 6436, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 5, 2014

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6479 with the following amendment(s): 6479-S.E AMH ELHS WICK 142

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 74.13 RCW to read as follows:

(1) For the purposes of this section, "caregiver" means a person with whom a child is placed in out-of-home care, or a designated official for a group care facility licensed by the department.

(2) This section applies to all caregivers providing for children in out-of-home care.

(3) Caregivers have the authority to provide or withhold permission without prior approval of the caseworker, department, or court to allow a child in their care to participate in normal childhood activities based on a reasonable and prudent parent standard.

(a) Normal childhood activities include, but are not limited to, extracurricular, enrichment, and social activities, and may include overnight activities outside the direct supervision of the caregiver for periods of over twenty-four hours and up to seventy-two hours.

(b) The reasonable and prudent parent standard means the standard of care used by a caregiver in determining whether to allow a child in his or her care to participate in extracurricular, enrichment, and social activities. This standard is characterized by careful and thoughtful parental decision-making that is intended to maintain a child's health, safety, and best interest while encouraging the child's emotional and developmental growth.

(4) Any authorization provided under this section must comply with provisions included in an existing safety plan established by the department or court order.

(5) (a) Caseworkers shall discuss the child's interest in and pursuit of normal childhood activities in their monthly health and safety visits and describe the child's participation in normal childhood activities in the individual service and safety plan.

(b) Caseworkers shall also review a child's interest in and pursuit of normal childhood activities during monthly meetings with parents. Caseworkers shall communicate the opinions of parents

FIFTY SEVENTH DAY, MARCH 10, 2014

2014 REGULAR SESSION

regarding their child's participation in normal childhood activities so that the parents' wishes may be appropriately considered.

(6) Neither the caregiver nor the department may be held liable for injuries to the child that occur as a result of authority granted in this section unless the action or inaction of the caregiver or the department resulting in injury constitutes willful or wanton misconduct.

(7) This section does not remove or limit any existing liability protection afforded by law.

**Sec. 2.** RCW 74.15.030 and 2007 c 387 s 5 and 2007 c 17 s 14 are each reenacted and amended to read as follows:

The secretary shall have the power and it shall be the secretary's duty:

(1) In consultation with the children's services advisory committee, and with the advice and assistance of persons representative of the various type agencies to be licensed, to designate categories of facilities for which separate or different requirements shall be developed as may be appropriate whether because of variations in the ages, sex and other characteristics of persons served, variations in the purposes and services offered or size or structure of the agencies to be licensed hereunder, or because of any other factor relevant thereto;

(2) In consultation with the children's services advisory committee, and with the advice and assistance of 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.

The minimum requirements shall be limited to:

(a) The size and suitability of a facility and the plan of operation for carrying out the purpose for which an applicant seeks a license;

(b) Obtaining background information and any out-of-state equivalent, to determine whether the applicant or service provider is disqualified and to determine the character, competence, and suitability of an agency, the agency's employees, volunteers, and other persons associated with an agency;

(c) Conducting background checks for those who will or may have unsupervised access to children, expectant mothers, or individuals with a developmental disability; however, a background check is not required if a caregiver approves an activity pursuant to the prudent parent standard contained in section 1 of this act;

(d) Obtaining child protective services information or records maintained in the department case management information system. No unfounded allegation of child abuse or neglect as defined in RCW 26.44.020 may be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under this chapter;

(e) Submitting a fingerprint-based background check through the Washington state patrol under chapter 10.97 RCW and through the federal bureau of investigation for:

(i) Agencies and their staff, volunteers, students, and interns when the agency is seeking license or relicense;

(ii) Foster care and adoption placements; and

(iii) Any adult living in a home where a child may be placed;

(f) If any adult living in the home has not resided in the state of Washington for the preceding five years, the department shall review any child abuse and neglect registries maintained by any state where the adult has resided over the preceding five years;

(g) The cost of fingerprint background check fees will be paid as required in RCW 43.43.837;

(h) National and state background information must be used solely for the purpose of determining eligibility for a license and for determining the character, suitability, and competence of those persons or agencies, excluding parents, not required to be licensed who are authorized to care for children or expectant mothers;

(i) The number of qualified persons required to render the type of care and treatment for which an agency seeks a license;

(j) The safety, cleanliness, and general adequacy of the premises to provide for the comfort, care and well-being of children, expectant mothers or developmentally disabled persons;

(k) The provision of necessary care, including food, clothing, supervision and discipline; physical, mental and social well-being; and educational, recreational and spiritual opportunities for those served;

(l) The financial ability of an agency to comply with minimum requirements established pursuant to chapter 74.15 RCW and RCW 74.13.031; and

(m) The maintenance of records pertaining to the admission, progress, health and discharge of persons served;

(3) To investigate any person, including relatives by blood or marriage except for parents, for character, suitability, and competence in the care and treatment of children, expectant mothers, and developmentally disabled persons prior to authorizing that person to care for children, expectant mothers, and developmentally disabled persons. However, if a child is placed with a relative under RCW 13.34.065 or 13.34.130, and if such relative appears otherwise suitable and competent to provide care and treatment the criminal history background check required by this section need not be completed before placement, but shall be completed as soon as possible after placement;

(4) On reports of alleged child abuse and neglect, to investigate agencies in accordance with chapter 26.44 RCW, including child day-care centers and family day-care homes, to determine whether the alleged abuse or neglect has occurred, and whether child protective services or referral to a law enforcement agency is appropriate;

(5) To issue, revoke, or deny licenses to agencies pursuant to chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the category of care which an agency is authorized to render and the ages, sex and number of persons to be served;

(6) To prescribe the procedures and the form and contents of reports necessary for the administration of chapter 74.15 RCW and RCW 74.13.031 and to require regular reports from each licensee;

(7) To inspect agencies periodically to determine whether or not there is compliance with chapter 74.15 RCW and RCW 74.13.031 and the requirements adopted hereunder;

(8) To review requirements adopted hereunder at least every two years and to adopt appropriate changes after consultation with affected groups for child day-care requirements and with the children's services advisory committee for requirements for other agencies; and

(9) To consult with public and private agencies in order to help them improve their methods and facilities for the care of children, expectant mothers and developmentally disabled persons."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator O'Ban moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6479.

Senators O'Ban, Frockt and Darneille spoke in favor of the motion.

Senators Billig and Padden spoke against the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator O'Ban that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6479.

The motion by Senator O'Ban carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6479 by a rising vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6479, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6479, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 37; Nays, 12; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Becker, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Keiser, King, Kline, Kohl-Welles, Litzow, Nelson, O'Ban, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Voting nay: Senators Baumgartner, Benton, Billig, Dandel, Eide, Holmquist Newbry, Honeyford, Liias, McAuliffe, McCoy, Mullet and Padden

ENGROSSED SUBSTITUTE SENATE BILL NO. 6479, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 6, 2014

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6517 with the following amendment(s): 6517-S.E AMH POLL H4459.1

On page 1, line 14, after "The" strike "residential" and insert "following information held by any public agency in personnel records, public employment related records, volunteer rosters, or included in any mailing list of employees or volunteers of any public agency: Residential"

On page 2, beginning on line 3, after "a public agency" strike all material through "agency" on line 6 and insert "((that are held by any public agency in personnel records, public employment related records, or volunteer rosters, or are included in any mailing list of employees or volunteers of any public agency))" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

TABLE 1

Sentencing Grid

SERIOUSNESS

LEVEL

OFFENDER SCORE

	0	1	2	3	4	5	6	7	8	9 or more
XVII	Life sentence without parole/death penalty for offenders at or over the age of eighteen.									
	For offenders under the age of eighteen, a term of twenty-five years to life.									
XV	23y	4m24y	4m25y	4m26y	4m27y	4m28y	4m30y	4m32y	10m36y	40y

Senator Roach moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6517.

Senator Roach spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Roach that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6517.

The motion by Senator Roach carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6517 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6517, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6517, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dandel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

ENGROSSED SUBSTITUTE SENATE BILL NO. 6517, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 7, 2014

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 5064 with the following amendment(s): 5064-S2 AMH PS H4390.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9.94A.510 and 2002 c 290 s 10 are each amended to read as follows:

	240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
	320	333	347	361	374	388	416	450	493	548
XIV	14y4m	15y4m	16y2m	17y	17y11m	18y9m	20y5m	22y2m	25y7m	29y
	123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
	220	234	244	254	265	275	295	316	357	397
XIII	12y	13y	14y	15y	16y	17y	19y	21y	25y	29y
	123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
	164	178	192	205	219	233	260	288	342	397
XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
	93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
	123	136	147	160	171	184	216	236	277	318
XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
	78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
	102	114	125	136	147	158	194	211	245	280
X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
	51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
	68	75	82	89	96	102	130	144	171	198
IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
	31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
	41	48	54	61	68	75	102	116	144	171
VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
	21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
	27	34	41	48	54	61	89	102	116	144
VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
	15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
	20	27	34	41	48	54	75	89	102	116
VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
	12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
	14	20	27	34	41	48	61	75	89	102
V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
	6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
	12	14	17	20	29	43	54	68	82	96
IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m

	3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
	9	12	14	17	20	29	43	57	70	84
III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
	1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
	3	8	12	12	16	22	29	43	57	68
II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
	0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
	Days	6	9	12	14	18	22	29	43	57
I			3m	4m	5m	8m	13m	16m	20m	2y2m
	0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
	Days	Days	5	6	8	12	14	18	22	29

Numbers in the first horizontal row of each seriousness category represent sentencing midpoints in years(y) and months(m). Numbers in the second and third rows represent standard sentence ranges in months, or in days if so designated. 12+ equals one year and one day.

**Sec. 2.** RCW 9.94A.540 and 2005 c 437 s 2 are each amended to read as follows:

(1) Except to the extent provided in subsection (3) of this section, the following minimum terms of total confinement are mandatory and shall not be varied or modified under RCW 9.94A.535:

(a) An offender convicted of the crime of murder in the first degree shall be sentenced to a term of total confinement not less than twenty years.

(b) An offender convicted of the crime of assault in the first degree or assault of a child in the first degree where the offender used force or means likely to result in death or intended to kill the victim shall be sentenced to a term of total confinement not less than five years.

(c) An offender convicted of the crime of rape in the first degree shall be sentenced to a term of total confinement not less than five years.

(d) An offender convicted of the crime of sexually violent predator escape shall be sentenced to a minimum term of total confinement not less than sixty months.

(e) An offender convicted of the crime of aggravated first degree murder for a murder that was committed prior to the offender's eighteenth birthday shall be sentenced to a term of total confinement not less than twenty-five years.

(2) During such minimum terms of total confinement, no offender subject to the provisions of this section is eligible for community custody, earned release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release authorized under RCW 9.94A.728, or any other form of authorized leave of absence from the correctional facility while not in the direct custody of a corrections officer. The provisions of this subsection shall not apply: (a) In the case of an offender in need of emergency medical treatment; (b) for the purpose of commitment to an inpatient treatment facility in the case of an offender convicted of the crime of rape in the first degree; or (c) for an extraordinary medical placement when authorized under RCW 9.94A.728~~((4))~~ (3).

(3)(a) Subsection (1)~~(a)~~ through (d) of this section shall not be applied in sentencing of juveniles tried as adults pursuant to RCW 13.04.030(1)(e)(i).

(b) This subsection (3) applies only to crimes committed on or after July 24, 2005.

**Sec. 3.** RCW 9.94A.6332 and 2010 c 224 s 11 are each amended to read as follows:

The procedure for imposing sanctions for violations of sentence conditions or requirements is as follows:

(1) If the offender was sentenced under the drug offender sentencing alternative, any sanctions shall be imposed by the department or the court pursuant to RCW 9.94A.660.

(2) If the offender was sentenced under the special sex offender sentencing alternative, any sanctions shall be imposed by the department or the court pursuant to RCW 9.94A.670.

(3) If the offender was sentenced under the parenting sentencing alternative, any sanctions shall be imposed by the department or by the court pursuant to RCW 9.94A.655.

(4) If a sex offender was sentenced pursuant to RCW 9.94A.507, any sanctions shall be imposed by the board pursuant to RCW 9.95.435.

(5) If the offender was released pursuant to section 10 of this act, any sanctions shall be imposed by the board pursuant to RCW 9.95.435.

(6) If the offender was sentenced pursuant to RCW 10.95.030(3) or section 11 of this act, any sanctions shall be imposed by the board pursuant to RCW 9.95.435.

(7) In any other case, if the offender is being supervised by the department, any sanctions shall be imposed by the department pursuant to RCW 9.94A.737. If a probationer is being supervised by the department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, upon receipt of a violation hearing report from the department, the court retains any authority that those statutes provide to respond to a probationer's violation of conditions.

~~((6))~~ (8) If the offender is not being supervised by the department, any sanctions shall be imposed by the court pursuant to RCW 9.94A.6333.

**Sec. 4.** RCW 9.94A.729 and 2013 2nd sp.s. c 14 s 2 and 2013 c 266 s 1 are each reenacted and amended to read as follows:

(1)(a) The term of the sentence of an offender committed to a correctional facility operated by the department may be reduced by earned release time in accordance with procedures that shall be developed and adopted by the correctional agency having jurisdiction in which the offender is confined. The earned release



FIFTY SEVENTH DAY, MARCH 10, 2014

2014 REGULAR SESSION

time shall be for good behavior and good performance, as determined by the correctional agency having jurisdiction. The correctional agency shall not credit the offender with earned release credits in advance of the offender actually earning the credits.

(b) Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. If an offender is transferred from a county jail to the department, the administrator of a county jail facility shall certify to the department the amount of time spent in custody at the facility and the number of days of early release credits lost or not earned. The department may approve a jail certification from a correctional agency that calculates early release time based on the actual amount of confinement time served by the offender before sentencing when an erroneous calculation of confinement time served by the offender before sentencing appears on the judgment and sentence. The department must adjust an offender's rate of early release listed on the jail certification to be consistent with the rate applicable to offenders in the department's facilities. However, the department is not authorized to adjust the number of presentence early release days that the jail has certified as lost or not earned.

(2) An offender who has been convicted of a felony committed after July 23, 1995, that involves any applicable deadly weapon enhancements under RCW 9.94A.533 (3) or (4), or both, shall not receive any good time credits or earned release time for that portion of his or her sentence that results from any deadly weapon enhancements.

(3) An offender may earn early release time as follows:

(a) In the case of an offender sentenced pursuant to RCW 10.95.030(3) or section 11 of this act, the aggregate earned release time may not exceed ten percent of the sentence.

(b) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 1990, and before July 1, 2003, the aggregate earned release time may not exceed fifteen percent of the sentence.

~~((b))~~ (c) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 2003, the aggregate earned release time may not exceed ten percent of the sentence.

~~((c))~~ (d) An offender is qualified to earn up to fifty percent of aggregate earned release time if he or she:

(i) Is not classified as an offender who is at a high risk to reoffend as provided in subsection (4) of this section;

(ii) Is not confined pursuant to a sentence for:

(A) A sex offense;

(B) A violent offense;

(C) A crime against persons as defined in RCW 9.94A.411;

(D) A felony that is domestic violence as defined in RCW 10.99.020;

(E) A violation of RCW 9A.52.025 (residential burglary);

(F) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(G) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

(iii) Has no prior conviction for the offenses listed in ~~((e))~~ (d)(ii) of this subsection;

(iv) Participates in programming or activities as directed by the offender's individual reentry plan as provided under RCW 72.09.270 to the extent that such programming or activities are made available by the department; and

(v) Has not committed a new felony after July 22, 2007, while under community custody.

~~((d))~~ (e) In no other case shall the aggregate earned release time exceed one-third of the total sentence.

(4) The department shall perform a risk assessment of each offender who may qualify for earned early release under subsection ~~(3)((e))~~ (d) of this section utilizing the risk assessment tool recommended by the Washington state institute for public policy. Subsection ~~(3)((e))~~ (d) of this section does not apply to offenders convicted after July 1, 2010.

(5)(a) A person who is eligible for earned early release as provided in this section and who will be supervised by the department pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to community custody in lieu of earned release time;

(b) The department shall, as a part of its program for release to the community in lieu of earned release, require the offender to propose a release plan that includes an approved residence and living arrangement. All offenders with community custody terms eligible for release to community custody in lieu of earned release shall provide an approved residence and living arrangement prior to release to the community;

(c) The department may deny transfer to community custody in lieu of earned release time if the department determines an offender's release plan, including proposed residence location and living arrangements, may violate the conditions of the sentence or conditions of supervision, place the offender at risk to violate the conditions of the sentence, place the offender at risk to reoffend, or present a risk to victim safety or community safety. The department's authority under this section is independent of any court-ordered condition of sentence or statutory provision regarding conditions for community custody;

(d) If the department is unable to approve the offender's release plan, the department may do one or more of the following:

(i) Transfer an offender to partial confinement in lieu of earned early release for a period not to exceed three months. The three months in partial confinement is in addition to that portion of the offender's term of confinement that may be served in partial confinement as provided in RCW 9.94A.728(5);

(ii) Provide rental vouchers to the offender for a period not to exceed three months if rental assistance will result in an approved release plan.

A voucher must be provided in conjunction with additional transition support programming or services that enable an offender to participate in services including, but not limited to, substance abuse treatment, mental health treatment, sex offender treatment, educational programming, or employment programming;

(e) The department shall maintain a list of housing providers that meets the requirements of RCW 72.09.285. If more than two voucher recipients will be residing per dwelling unit, as defined in RCW 59.18.030, rental vouchers for those recipients may only be paid to a housing provider on the department's list;

(f) For each offender who is the recipient of a rental voucher, the department shall gather data as recommended by the Washington state institute for public policy in order to best demonstrate whether rental vouchers are effective in reducing recidivism.

(6) An offender serving a term of confinement imposed under RCW 9.94A.670(5)(a) is not eligible for earned release credits under this section.

**Sec. 5.** RCW 9.95.425 and 2009 c 28 s 30 are each amended to read as follows:

(1) Whenever the board or a community corrections officer of this state has reason to believe an offender released under RCW 9.95.420, 10.95.030(3), or section 10 of this act has violated a condition of community custody or the laws of this state, any community corrections officer may arrest or cause the arrest and detention of the offender pending a determination by the board whether sanctions should be imposed or the offender's community custody should be revoked. The community corrections officer

shall report all facts and circumstances surrounding the alleged violation to the board, with recommendations.

(2) If the board or the department causes the arrest or detention of an offender for a violation that does not amount to a new crime and the offender is arrested or detained by local law enforcement or in a local jail, the board or department, whichever caused the arrest or detention, shall be financially responsible for local costs. Jail bed costs shall be allocated at the rate established under RCW 9.94A.740.

**Sec. 6.** RCW 9.95.430 and 2001 2nd sp.s. c 12 s 308 are each amended to read as follows:

Any offender released under RCW 9.95.420, 10.95.030(3), or section 10 of this act who is arrested and detained in physical custody by the authority of a community corrections officer, or upon the written order of the board, shall not be released from custody on bail or personal recognizance, except upon approval of the board and the issuance by the board of an order reinstating the offender's release on the same or modified conditions. All chiefs of police, marshals of cities and towns, sheriffs of counties, and all police, prison, and peace officers and constables shall execute any such order in the same manner as any ordinary criminal process.

**Sec. 7.** RCW 9.95.435 and 2007 c 363 s 3 are each amended to read as follows:

(1) If an offender released by the board under RCW 9.95.420, 10.95.030(3), or section 10 of this act violates any condition or requirement of community custody, the board may transfer the offender to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation and subject to the limitations of subsection (2) of this section.

(2) Following the hearing specified in subsection (3) of this section, the board may impose sanctions such as work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, or any other sanctions available in the community, or may suspend the release and sanction up to sixty days' confinement in a local correctional facility for each violation, or revoke the release to community custody whenever an offender released by the board under RCW 9.95.420, 10.95.030(3), or section 10 of this act violates any condition or requirement of community custody.

(3) If an offender released by the board under RCW 9.95.420, 10.95.030(3), or section 10 of this act is accused of violating any condition or requirement of community custody, he or she is entitled to a hearing before the board or a designee of the board prior to the imposition of sanctions. The hearing shall be considered as offender disciplinary proceedings and shall not be subject to chapter 34.05 RCW. The board shall develop hearing procedures and a structure of graduated sanctions consistent with the hearing procedures and graduated sanctions developed pursuant to RCW 9.94A.737. The board may suspend the offender's release to community custody and confine the offender in a correctional institution owned, operated by, or operated under contract with the state prior to the hearing unless the offender has been arrested and confined for a new criminal offense.

(4) The hearing procedures required under subsection (3) of this section shall be developed by rule and include the following:

(a) Hearings shall be conducted by members or designees of the board unless the board enters into an agreement with the department to use the hearing officers established under RCW 9.94A.737;

(b) The board shall provide the offender with findings and conclusions which include the evidence relied upon, and the reasons the particular sanction was imposed. The board shall notify the offender of the right to appeal the sanction and the right to file a

personal restraint petition under court rules after the final decision of the board;

(c) The hearing shall be held unless waived by the offender, and shall be electronically recorded. For offenders not in total confinement, the hearing shall be held within thirty days of service of notice of the violation, but not less than twenty-four hours after notice of the violation. For offenders in total confinement, the hearing shall be held within thirty days of service of notice of the violation, but not less than twenty-four hours after notice of the violation. The board or its designee shall make a determination whether probable cause exists to believe the violation or violations occurred. The determination shall be made within forty-eight hours of receipt of the allegation;

(d) The offender shall have the right to: (i) Be present at the hearing; (ii) have the assistance of a person qualified to assist the offender in the hearing, appointed by the presiding hearing officer if the offender has a language or communications barrier; (iii) testify or remain silent; (iv) call witnesses and present documentary evidence; (v) question witnesses who appear and testify; and (vi) be represented by counsel if revocation of the release to community custody upon a finding of violation is a probable sanction for the violation. The board may not revoke the release to community custody of any offender who was not represented by counsel at the hearing, unless the offender has waived the right to counsel; and

(e) The sanction shall take effect if affirmed by the presiding hearing officer.

(5) Within seven days after the presiding hearing officer's decision, the offender may appeal the decision to the full board or to a panel of three reviewing examiners designated by the chair of the board or by the chair's designee. The sanction shall be reversed or modified if a majority of the panel finds that the sanction was not reasonably related to any of the following: (a) The crime of conviction; (b) the violation committed; (c) the offender's risk of reoffending; or (d) the safety of the community.

(6) For purposes of this section, no finding of a violation of conditions may be based on unconfirmed or unconfirmable allegations.

**Sec. 8.** RCW 9.95.440 and 2008 c 231 s 45 are each amended to read as follows:

In the event the board suspends the release status of an offender released under RCW 9.95.420, 10.95.030(3), or section 10 of this act by reason of an alleged violation of a condition of release, or pending disposition of a new criminal charge, the board may nullify the suspension order and reinstate release under previous conditions or any new conditions the board determines advisable under RCW 9.94A.704. Before the board may nullify a suspension order and reinstate release, it shall determine that the best interests of society and the offender shall be served by such reinstatement rather than return to confinement.

**Sec. 9.** RCW 10.95.030 and 2010 c 94 s 3 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, any person convicted of the crime of aggravated first degree murder shall be sentenced to life imprisonment without possibility of release or parole. A person sentenced to life imprisonment under this section shall not have that sentence suspended, deferred, or commuted by any judicial officer and the indeterminate sentence review board or its successor may not parole such prisoner nor reduce the period of confinement in any manner whatsoever including but not limited to any sort of good-time calculation. The department of social and health services or its successor or any executive official may not permit such prisoner to participate in any sort of release or furlough program.

(2) If, pursuant to a special sentencing proceeding held under RCW 10.95.050, the trier of fact finds that there are not sufficient mitigating circumstances to merit leniency, the sentence shall be

FIFTY SEVENTH DAY, MARCH 10, 2014

2014 REGULAR SESSION

death. In no case, however, shall a person be sentenced to death if the person had an intellectual disability at the time the crime was committed, under the definition of intellectual disability set forth in (a) of this subsection. A diagnosis of intellectual disability shall be documented by a licensed psychiatrist or licensed psychologist designated by the court, who is an expert in the diagnosis and evaluation of intellectual disabilities. The defense must establish an intellectual disability by a preponderance of the evidence and the court must make a finding as to the existence of an intellectual disability.

(a) "Intellectual disability" means the individual has: (i) Significantly subaverage general intellectual functioning; (ii) existing concurrently with deficits in adaptive behavior; and (iii) both significantly subaverage general intellectual functioning and deficits in adaptive behavior were manifested during the developmental period.

(b) "General intellectual functioning" means the results obtained by assessment with one or more of the individually administered general intelligence tests developed for the purpose of assessing intellectual functioning.

(c) "Significantly subaverage general intellectual functioning" means intelligence quotient seventy or below.

(d) "Adaptive behavior" means the effectiveness or degree with which individuals meet the standards of personal independence and social responsibility expected for his or her age.

(e) "Developmental period" means the period of time between conception and the eighteenth birthday.

(3)(a)(i) Any person convicted of the crime of aggravated first degree murder for an offense committed prior to the person's sixteenth birthday shall be sentenced to a maximum term of life imprisonment and a minimum term of total confinement of twenty-five years.

(ii) Any person convicted of the crime of aggravated first degree murder for an offense committed when the person is at least sixteen years old but less than eighteen years old shall be sentenced to a maximum term of life imprisonment and a minimum term of total confinement of no less than twenty-five years. A minimum term of life may be imposed, in which case the person will be ineligible for parole or early release.

(b) In setting a minimum term, the court must take into account mitigating factors that account for the diminished culpability of youth as provided in *Miller v. Alabama*, 132 S.Ct. 2455 (2012) including, but not limited to, the age of the individual, the youth's childhood and life experience, the degree of responsibility the youth was capable of exercising, and the youth's chances of becoming rehabilitated.

(c) A person sentenced under this subsection shall serve the sentence in a facility or institution operated, or utilized under contract, by the state. During the minimum term of total confinement, the person shall not be eligible for community custody, earned release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release authorized under RCW 9.94A.728, or any other form of authorized leave or absence from the correctional facility while not in the direct custody of a corrections officer. The provisions of this subsection shall not apply: (i) In the case of an offender in need of emergency medical treatment; or (ii) for an extraordinary medical placement when authorized under RCW 9.94A.728(3).

(d) Any person sentenced pursuant to this subsection shall be subject to community custody under the supervision of the department of corrections and the authority of the indeterminate sentence review board. As part of any sentence under this subsection, the court shall require the person to comply with any conditions imposed by the board.

(e) No later than five years prior to the expiration of the person's

minimum term, the department of corrections shall conduct an assessment of the offender and identify programming and services that would be appropriate to prepare the offender for return to the community. To the extent possible, the department shall make programming available as identified by the assessment.

(f) No later than one hundred eighty days prior to the expiration of the person's minimum term, the department of corrections shall conduct, and the offender shall participate in, an examination of the person, incorporating methodologies that are recognized by experts in the prediction of dangerousness, and including a prediction of the probability that the person will engage in future criminal behavior if released on conditions to be set by the board. The board may consider a person's failure to participate in an evaluation under this subsection in determining whether to release the person. The board shall order the person released, under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the person will commit new criminal law violations if released. If the board does not order the person released, the board shall set a new minimum term not to exceed five additional years. The board shall give public safety considerations the highest priority when making all discretionary decisions regarding the ability for release and conditions of release.

(g) In a hearing conducted under (f) of this subsection, the board shall provide opportunities for victims and survivors of victims of any crimes for which the offender has been convicted to present statements as set forth in RCW 7.69.032. The procedures for victim and survivor of victim input shall be developed by rule. To facilitate victim and survivor of victim involvement, county prosecutor's offices shall ensure that any victim impact statements and known contact information for victims of record and survivors of victims are forwarded as part of the judgment and sentence.

(h) An offender released by the board is subject to the supervision of the department of corrections for a period of time to be determined by the board. The department shall monitor the offender's compliance with conditions of community custody imposed by the court, department, or board, and promptly report any violations to the board. Any violation of conditions of community custody established or modified by the board are subject to the provisions of RCW 9.95.425 through 9.95.440.

**NEW SECTION. Sec. 10.** A new section is added to chapter 9.94A RCW to read as follows:

(1) Notwithstanding any other provision of this chapter, any person convicted of one or more crimes committed prior to the person's eighteenth birthday may petition the indeterminate sentence review board for early release after serving no less than twenty years of total confinement, provided the person has not been convicted for any crime committed subsequent to the person's eighteenth birthday, the person has not committed a major violation in the twelve months prior to filing the petition for early release, and the current sentence was not imposed under RCW 10.95.030 or 9.94A.507.

(2) When an offender who will be eligible to petition under this section has served fifteen years, the department shall conduct an assessment of the offender and identify programming and services that would be appropriate to prepare the offender for return to the community. To the extent possible, the department shall make programming available as identified by the assessment.

(3) No later than one hundred eighty days from receipt of the petition for early release, the department shall conduct, and the offender shall participate in, an examination of the person, incorporating methodologies that are recognized by experts in the prediction of dangerousness, and including a prediction of the probability that the person will engage in future criminal behavior if released on conditions to be set by the board. The board may

consider a person's failure to participate in an evaluation under this subsection in determining whether to release the person. The board shall order the person released under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the person will commit new criminal law violations if released. The board shall give public safety considerations the highest priority when making all discretionary decisions regarding the ability for release and conditions of release.

(4) In a hearing conducted under subsection (3) of this section, the board shall provide opportunities for victims and survivors of victims of any crimes for which the offender has been convicted to present statements as set forth in RCW 7.69.032. The procedures for victim and survivor of victim input shall be developed by rule. To facilitate victim and survivor of victim involvement, county prosecutor's offices shall ensure that any victim impact statements and known contact information for victims of record and survivors of victims are forwarded as part of the judgment and sentence.

(5) An offender released by the board is subject to the supervision of the department for a period of time to be determined by the board. The department shall monitor the offender's compliance with conditions of community custody imposed by the court, department, or board, and promptly report any violations to the board. Any violation of conditions of community custody established or modified by the board are subject to the provisions of RCW 9.95.425 through 9.95.440.

(6) An offender whose petition for release is denied may file a new petition for release five years from the date of denial or at an earlier date as may be set by the board.

**NEW SECTION. Sec. 11.** A new section is added to chapter 10.95 RCW to read as follows:

(1) A person, who was sentenced prior to June 1, 2014, to a term of life without the possibility of parole for an offense committed prior to their eighteenth birthday, shall be returned to the sentencing court or the sentencing court's successor for sentencing consistent with RCW 10.95.030. Release and supervision of a person who receives a minimum term of less than life will be governed by RCW 10.95.030.

(2) The court shall provide an opportunity for victims and survivors of victims of any crimes for which the offender has been convicted to present a statement personally or by representation.

(3) The court's order setting a minimum term is subject to review to the same extent as a minimum term decision by the parole board before July 1, 1986.

(4) A resentencing under this section shall not reopen the defendant's conviction to challenges that would otherwise be barred by RCW 10.73.090, 10.73.100, 10.73.140, or other procedural barriers.

**NEW SECTION. Sec. 12.** A new section is added to chapter 10.95 RCW to read as follows:

Sections 1 through 9 of this act apply to all sentencing hearings conducted on or after June 1, 2014, regardless of the date of an offender's underlying offense.

**NEW SECTION. Sec. 13.** (1) The legislature shall convene a task force to examine juvenile sentencing reform, with the following voting members:

(a) The president of the senate shall appoint one member from each of the two largest caucuses of the senate;

(b) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses in the house of representatives;

(c) A representative from the governor's office;

(d) The assistant secretary of the department of social and health services overseeing the juvenile justice and rehabilitation administration or his or her designee;

(e) The secretary of the department of corrections or his or her designee;

(f) A superior court judge from the superior court judges association family and juvenile law subcommittee, who is familiar with cases involving the transfer of youth to the adult criminal justice system and sentencing of youth in the adult criminal justice system;

(g) A representative of the Washington association of prosecuting attorneys;

(h) A representative of the Washington association of criminal defense lawyers or the Washington defender association;

(i) A representative from the Washington coalition of crime victim advocates;

(j) A representative from the juvenile court administrator's association;

(k) A representative from the Washington association of sheriffs and police chiefs;

(l) A representative from law enforcement who works with juveniles; and

(m) A representative from the sentencing guidelines commission.

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

(3) The task force shall undertake a thorough review of juvenile sentencing as it relates to the intersection of the adult and juvenile justice systems and make recommendations for reform that promote improved outcomes for youth, public safety, and taxpayer resources. The review shall include, but is not limited to:

(a) The process and circumstances for transferring a juvenile to adult jurisdiction, including discretionary and mandatory decline hearings and automatic transfer to adult jurisdiction;

(b) Sentencing standards, term lengths, sentencing enhancements, and stacking provisions that apply once a juvenile is transferred to adult jurisdiction; and

(c) The appropriate custody, treatment, and resources for declined youth who will complete their term of confinement prior to reaching age twenty-one.

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

(5) Legislative members of the task force may 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 as provided in RCW 43.03.050 and 43.03.060.

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

(7) The task force shall report its findings and recommendations to the governor and the appropriate committees of the legislature by December 1, 2014.

**NEW SECTION. Sec. 14.** Section 13 of this act expires June 1, 2015.

**NEW SECTION. Sec. 15.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 16.** 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 June 1, 2014."

Correct the title.  
and the same are herewith transmitted.

FIFTY SEVENTH DAY, MARCH 10, 2014

2014 REGULAR SESSION

BARBARA BAKER, Chief Clerk

MOTION

Senator O'Ban moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5064.

Senator O'Ban spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator O'Ban that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5064.

The motion by Senator O'Ban carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5064 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5064, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5064, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Voting nay: Senator Dansel

SECOND SUBSTITUTE SENATE BILL NO. 5064, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 7, 2014

MR. PRESIDENT:

The House passed SUBSTITUTION SENATE BILL NO. 5859 with the following amendment(s): 5859-S AMH APP H4456.1

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that promoting a financially viable health care system in all parts of the state is a critical interest. The federal centers for medicare and medicaid services has recognized the crucial role hospitals play in providing care in rural areas by creating the sole community hospital program, which allows certain small rural hospitals to receive enhanced payments for medicare services. The legislature further finds that creating a similar reimbursement system for the state's medicaid program for sole community hospitals will promote the long-term financial viability of the rural health care system in those communities.

**Sec. 2.** RCW 74.09.5225 and 2011 1st sp.s. c 15 s 31 are each amended to read as follows:

(1) Payments for recipients eligible for medical assistance programs under this chapter for services provided by hospitals, regardless of the beneficiary's managed care enrollment status, shall be made based on allowable costs incurred during the year, when

services are provided by a rural hospital certified by the centers for medicare and medicaid services as a critical access hospital. Any additional payments made by the authority for the healthy options program shall be no more than the additional amounts per service paid under this section for other medical assistance programs.

(2) Beginning on July 24, 2005, a moratorium shall be placed on additional hospital participation in critical access hospital payments under this section. However, rural hospitals that applied for certification to the centers for medicare and medicaid services prior to January 1, 2005, but have not yet completed the process or have not yet been approved for certification, remain eligible for medical assistance payments under this section.

(3)(a) Beginning January 1, 2015, payments for recipients eligible for medical assistance programs under this chapter for services provided by a hospital, regardless of the beneficiary's managed care enrollment status, shall be increased to one hundred twenty-five percent of the hospital's fee-for-service rates, when services are provided by a rural hospital that:

(i) Was certified by the centers for medicare and medicaid services as a sole community hospital as of January 1, 2013;

(ii) Had a level III adult trauma service designation from the department of health as of January 1, 2014;

(iii) Had less than one hundred fifty acute care licensed beds in fiscal year 2011; and

(iv) Is owned and operated by the state or a political subdivision.

(b) The enhanced payment rates under this subsection shall be considered the hospital's medicaid payment rate for purposes of any other state or private programs that pay hospitals according to medicaid payment rates.

(c) Hospitals participating in the certified public expenditures program may not receive the increased reimbursement rates provided in this subsection (3) for inpatient services."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Braun moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5859.

Senator Braun spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Braun that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5859.

The motion by Senator Braun carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5859 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5859, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5859, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 3; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe,

McCoy, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Voting nay: Senators Dinsel, Holmquist Newbry and Mullet  
SUBSTITUTE SENATE BILL NO. 5859, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 7, 2014

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6014 with the following amendment(s): 6014-S AMH PS H4386.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 79A.60.040 and 2013 c 278 s 1 are each amended to read as follows:

(1) It is unlawful for any person to operate a vessel in a reckless manner.

(2) It is unlawful for a person to operate a vessel while under the influence of intoxicating liquor, marijuana, or any drug. A person is considered to be under the influence of intoxicating liquor, marijuana, or any drug if, within two hours of operating a vessel:

(a) The person has an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) The person has a THC concentration of 5.00 or higher as shown by analysis of the person's blood made under RCW 46.61.506; or

(c) The person is under the influence of or affected by intoxicating liquor, marijuana, or any drug; or

(d) The person is under the combined influence of or affected by intoxicating liquor, marijuana, and any drug.

(3) The fact that any person charged with a violation of this section is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charge of violating this section.

(4)~~(a)~~ Any person who operates a vessel within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of the person's breath ~~((or blood))~~ for the purpose of determining the alcohol concentration ~~((or THC concentration, or presence of any drug))~~ in the person's breath ~~((or blood))~~ if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person was operating a vessel while under the influence of intoxicating liquor ~~((or marijuana))~~ or a combination of intoxicating liquor and any other drug.

(b) When an arrest results from an accident in which there has been serious bodily injury to another person or death or the arresting officer has reasonable grounds to believe the person was operating a vessel while under the influence of THC or any other drug, a blood test may be administered with the consent of the arrested person and a valid waiver of the warrant requirement or without the consent of the person so arrested pursuant to a search warrant or when exigent circumstances exist.

(c) Neither consent nor this section precludes a police officer from obtaining a search warrant for a person's breath or blood.

(d) An arresting officer may administer field sobriety tests when circumstances permit.

(5) The test or tests of breath must be administered pursuant to RCW 46.20.308. ~~((Where the officer has reasonable grounds to believe that the person is under the influence of a drug, or where the person is incapable due to physical injury, physical incapacity, or other physical limitation, of providing a breath sample, or where the~~

person is being treated in a hospital, clinic, doctor's office, emergency medical vehicle, ambulance, or other similar facility, a blood test must be administered by a qualified person as provided in RCW 46.61.506(5).)) The officer shall warn the person that if the person refuses to take the test, the person will be issued a class 1 civil infraction under RCW 7.80.120.

(6) A violation of subsection (1) of this section is a misdemeanor. A violation of subsection (2) of this section is a gross misdemeanor. In addition to the statutory penalties imposed, the court may order the defendant to pay restitution for any damages or injuries resulting from the offense.

**Sec. 2.** RCW 79A.60.700 and 2013 c 278 s 2 are each amended to read as follows:

(1) The refusal of a person to submit to a test of the alcohol concentration, THC concentration, or presence of any drug in the person's blood or breath is not admissible into evidence at a subsequent criminal trial.

(2) A person's refusal to submit to a test or tests pursuant to RCW 79A.60.040~~(4)(a)~~ constitutes a class 1 civil infraction under RCW 7.80.120."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Padden moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6014.

Senators Padden and Kline spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Padden that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6014.

The motion by Senator Padden carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6014 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6014, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6014, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dinsel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

SUBSTITUTE SENATE BILL NO. 6014, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 7, 2014

MR. PRESIDENT:

FIFTY SEVENTH DAY, MARCH 10, 2014

The House passed SUBSTITUTE SENATE BILL NO. 6054 with the following amendment(s): 6054-S AMH SHEA LONG 622

On page 2, line 11, after "feet," strike "must" and insert "should" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator King moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6054.

Senator King spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator King that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6054.

The motion by Senator King carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6054 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6054, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6054, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

SUBSTITUTE SENATE BILL NO. 6054, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 7, 2014

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6126 with the following amendment(s): 6126-S2.E AMH APP H4474.1

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature recognizes that some children may remain in foster care following the termination of the parent and child relationship. These children have legal rights and no longer have a parent to advocate on their behalf, and no other party represents their legal interests. The legislature finds that providing attorneys for children following the termination of the parent and child relationship is fundamental to protecting the child's legal rights and to accelerate permanency.

(2) Although the legislature recognizes that many jurisdictions provide attorneys to children prior to termination of the parent and child relationship, nothing in this act may be construed against the parent's fundamental liberty interest in parenting the child prior to termination of the parent and child relationship as stated in *In re*

2014 REGULAR SESSION

*Dependency of K.N.J.*, 171 Wn.2d 568, 574 (2011) and *In re Welfare of Luscier*, 84 Wn.2d 135, 136-37 (1974), unless such a position would jeopardize the child's right to conditions of basic nurture, health, or safety.

**Sec. 2.** RCW 13.34.100 and 2010 c 180 s 2 are each amended to read as follows:

(1) The court shall appoint a guardian ad litem for a child who is the subject of an action under this chapter, unless a court for good cause finds the appointment unnecessary. The requirement of a guardian ad litem may be deemed satisfied if the child is represented by an independent ((counsel)) attorney in the proceedings. The court shall attempt to match a child with special needs with a guardian ad litem who has specific training or education related to the child's individual needs.

(2) If the court does not have available to it a guardian ad litem program with a sufficient number of volunteers, the court may appoint a suitable person to act as guardian ad litem for the child under this chapter. Another party to the proceeding or the party's employee or representative shall not be so appointed.

(3) Each guardian ad litem program shall maintain a background information record for each guardian ad litem in the program. The background information record shall include, but is not limited to, the following information:

(a) Level of formal education;

(b) General training related to the guardian ad litem's duties;

(c) Specific training related to issues potentially faced by children in the dependency system;

(d) Specific training or education related to child disability or developmental issues;

(e) Number of years' experience as a guardian ad litem;

(f) Number of appointments as a guardian ad litem and the county or counties of appointment;

(g) The names of any counties in which the person was removed from a guardian ad litem registry pursuant to a grievance action, and the name of the court and the cause number of any case in which the court has removed the person for cause;

(h) Founded allegations of abuse or neglect as defined in RCW 26.44.020;

(i) The results of an examination of state and national criminal identification data. The examination shall consist of a background check as allowed through the Washington state criminal records privacy act under RCW 10.97.050, the Washington state patrol criminal identification system under RCW 43.43.832 through 43.43.834, and the federal bureau of investigation. The background check shall be done through the Washington state patrol criminal identification section and must include a national check from the federal bureau of investigation based on the submission of fingerprints; and

(j) Criminal history, as defined in RCW 9.94A.030, for the period covering ten years prior to the appointment.

The background information record shall be updated annually. As a condition of appointment, the guardian ad litem's background information record shall be made available to the court. If the appointed guardian ad litem is not a member of a guardian ad litem program a suitable person appointed by the court to act as guardian ad litem shall provide the background information record to the court.

Upon appointment, the guardian ad litem, or guardian ad litem program, shall provide the parties or their attorneys with a copy of the background information record. The portion of the background information record containing the results of the criminal background check and the criminal history shall not be disclosed to the parties or their attorneys. The background information record shall not include identifying information that may be used to harm a guardian ad litem, such as home addresses and home telephone numbers, and

for volunteer guardians ad litem the court may allow the use of maiden names or pseudonyms as necessary for their safety.

(4) The appointment of the guardian ad litem shall remain in effect until the court discharges the appointment or no longer has jurisdiction, whichever comes first. The guardian ad litem may also be discharged upon entry of an order of guardianship.

(5) A guardian ad litem through ~~((counsel))~~ an attorney, or as otherwise authorized by the court, shall have the right to present evidence, examine and cross-examine witnesses, and to be present at all hearings. A guardian ad litem shall receive copies of all pleadings and other documents filed or submitted to the court, and notice of all hearings according to court rules. The guardian ad litem shall receive all notice contemplated for a parent or other party in all proceedings under this chapter.

(6)(a) The court must appoint an attorney for a child in a dependency proceeding six months after granting a petition to terminate the parent and child relationship pursuant to RCW 13.34.180 and when there is no remaining parent with parental rights.

The court must appoint an attorney for a child when there is no remaining parent with parental rights for six months or longer prior to the effective date of this section if the child is not already represented.

The court may appoint one attorney to a group of siblings, unless there is a conflict of interest, or such representation is otherwise inconsistent with the rules of professional conduct.

(b) Legal services provided by an attorney appointed pursuant to (a) of this subsection do not include representation of the child in any appellate proceedings relative to the termination of the parent and child relationship.

(c)(i) Subject to the availability of amounts appropriated for this specific purpose, the state shall pay the costs of legal services provided by an attorney appointed pursuant to (a) of this subsection, if the legal services are provided in accordance with the standards of practice, voluntary training, and caseload limits developed and recommended by the statewide children's representation work group pursuant to section 5, chapter 180, Laws of 2010. Caseload limits must be calculated pursuant to (c)(ii) of this subsection.

(ii) Counties are encouraged to set caseloads as low as possible and to account for the individual needs of the children in care. Notwithstanding the caseload limits developed and recommended by the statewide children's representation work group pursuant to section 5, chapter 180, Laws of 2010, when one attorney represents a sibling group, the first child is counted as one case, and each child thereafter is counted as one-half case to determine compliance with the caseload standards pursuant to (c)(i) of this subsection and section 3 of this act.

(iii) The office of civil legal aid is responsible for implementation of (c)(i) and (ii) of this subsection as provided in section 3 of this act.

(7)(a) The court may appoint an attorney to represent the child's position in any dependency action on its own initiative, or upon the request of a parent, the child, a guardian ad litem, a caregiver, or the department.

(b)(i) If the court has not already appointed an attorney for a child, or the child is not represented by a privately retained attorney:

(A) The child's caregiver, or any individual, may refer the child to an attorney for the purposes of filing a motion to request appointment of an attorney at public expense; or

(B) The child or any individual may retain an attorney for the child for the purposes of filing a motion to request appointment of an attorney at public expense.

(ii) Nothing in this subsection (7)(b) shall be construed to change or alter the confidentiality provisions of RCW 13.50.100.

(c) Pursuant to this subsection, the department or supervising agency and the child's guardian ad litem shall each notify a child of

his or her right to request ~~((counsel))~~ an attorney and shall ask the child whether he or she wishes to have ~~((counsel))~~ an attorney. The department or supervising agency and the child's guardian ad litem shall notify the child and make this inquiry immediately after:

(i) The date of the child's twelfth birthday;

(ii) Assignment of a case involving a child age twelve or older;

or

(iii) July 1, 2010, for a child who turned twelve years old before July 1, 2010.

~~((b))~~ (d) The department or supervising agency and the child's guardian ad litem shall repeat the notification and inquiry at least annually and upon the filing of any motion or petition affecting the child's placement, services, or familial relationships.

~~((e))~~ (e) The notification and inquiry is not required if the child has already been appointed ~~((counsel))~~ an attorney.

~~((d))~~ (f) The department or supervising agency shall note in the child's individual service and safety plan, and the guardian ad litem shall note in his or her report to the court, that the child was notified of the right to request ~~((counsel))~~ an attorney and indicate the child's position regarding appointment of ~~((counsel))~~ an attorney.

~~((e))~~ (g) At the first regularly scheduled hearing after:

(i) The date of the child's twelfth birthday;

(ii) The date that a dependency petition is filed pursuant to this chapter on a child age twelve or older; or

(iii) July 1, 2010, for a child who turned twelve years old before July 1, 2010;

the court shall inquire whether the child has received notice of his or her right to request ~~((legal counsel))~~ an attorney from the department or supervising agency and the child's guardian ad litem. The court shall make an additional inquiry at the first regularly scheduled hearing after the child's fifteenth birthday. No inquiry is necessary if the child has already been appointed ~~((counsel))~~ an attorney.

~~((f))~~ (f) If the child requests legal counsel and is age twelve or older, or if the guardian ad litem or the court determines that the child needs to be independently represented by counsel, the court may appoint an attorney to represent the child's position.

(7)) (8) For the purposes of child abuse prevention and treatment act (42 U.S.C. Secs. 5101 et seq.) grants to this state under P.L. 93- 247, or any related state or federal legislation, a person appointed pursuant to this section shall be deemed a guardian ad litem ((to represent the best interests of the minor in proceedings before the court)).

~~((8))~~ (9) When a court-appointed special advocate or volunteer guardian ad litem is requested on a case, the program shall give the court the name of the person it recommends. The program shall attempt to match a child with special needs with a guardian ad litem who has specific training or education related to the child's individual needs. The court shall immediately appoint the person recommended by the program.

~~((9))~~ (10) If a party in a case reasonably believes the court-appointed special advocate or volunteer guardian ad litem is inappropriate or unqualified, the party may request a review of the appointment by the program. The program must complete the review within five judicial days and remove any appointee for good cause. If the party seeking the review is not satisfied with the outcome of the review, the party may file a motion with the court for the removal of the court-appointed special advocate or volunteer guardian ad litem on the grounds the advocate or volunteer is inappropriate or unqualified.

NEW SECTION. Sec. 3. A new section is added to chapter 2.53 RCW to read as follows:

(1) Money appropriated by the legislature for legal services provided by an attorney appointed pursuant to RCW 13.34.100 must



FIFTY SEVENTH DAY, MARCH 10, 2014

2014 REGULAR SESSION

be administered by the office of civil legal aid established under RCW 2.53.020.

MESSAGE FROM THE HOUSE

March 7, 2014

(2) The office of civil legal aid may enter into contracts with the counties to disburse state funds for an attorney appointed pursuant to RCW 13.34.100. The office of civil legal aid may also require a county to use attorneys under contract with the office for the provision of legal services under RCW 13.34.100 to remain within appropriated amounts.

(3) Prior to distributing state funds under subsection (2) of this section, the office of civil legal aid must verify that attorneys providing legal representation to children under RCW 13.34.100 meet the standards of practice, voluntary training, and caseload limits developed and recommended by the statewide children's representation work group pursuant to section 5, chapter 180, Laws of 2010. Caseload limits described in this subsection must be determined as provided in RCW 13.34.100(6)(c)(ii).

NEW SECTION. **Sec. 4.** This act takes effect July 1, 2014.

NEW SECTION. **Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2014, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator O'Ban moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6126.

Senators O'Ban and Darneille spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator O'Ban that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6126.

The motion by Senator O'Ban carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6126 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6126, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6126, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dinsel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6126, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6228 with the following amendment(s): 6228-S.E AMH ENGR H4399.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** Consumers face a challenge finding reliable, consumer friendly information on health care pricing and quality. Greater transparency of health care prices and quality leads to engaged, activated consumers. Research indicates that engaged and educated consumers help control costs and improve quality with lower costs per patient, lower hospital readmission rates, and the use of higher quality providers. Washington is a leader in efforts to develop and publish provider quality information.

Although data is available today, research indicates the existing information is not user friendly, consumers do not know which measures are most relevant, and quality ratings are inconsistent or nonstandardized. It is the intent of the legislature to ensure consumer tools are available to educate and engage patients in managing their care and understanding the costs and quality.

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

(1) There is created a performance measures committee, the purpose of which is to identify and recommend standard statewide measures of health performance to inform public and private health care purchasers and to propose benchmarks to track costs and improvements in health outcomes.

(2) Members of the committee must include representation from state agencies, small and large employers, the two largest health plans by enrollment, patient groups, federally recognized tribal members, consumers, academic experts on health care measurement, hospitals, physicians, and other providers. The governor shall appoint the members of the committee, except that a statewide association representing hospitals may appoint a member representing hospitals, a statewide association representing physicians may appoint a member representing physicians, and a statewide association representing nurses may appoint a member representing nurses. The governor shall ensure that members represent diverse geographic locations and both rural and urban communities. The committee must be chaired by the director of the authority.

(3) The committee shall develop a transparent process for selecting performance measures, and the process must include opportunities for public comment.

(4) By January 1, 2015, the committee shall submit the performance measures to the authority. The measures must include dimensions of:

- (a) Prevention and screening;
- (b) Effective management of chronic conditions;
- (c) Key health outcomes;
- (d) Care coordination and patient safety; and
- (e) Use of the lowest cost, highest quality care for preventive care and chronic and acute conditions.

(5) The committee shall develop a measure set that:

- (a) Is of manageable size;
- (b) Gives preference to nationally reported measures and, where nationally reported measures may not be appropriate or available, measures used by state agencies that purchase health care or commercial health plans;
- (c) Focuses on the overall performance of the system, including outcomes and total cost;

(d) Is aligned with the governor's performance management system measures and common measure requirements specific to medicaid delivery systems under RCW 70.320.020 and 43.20A.895;

(e) Considers the needs of different stakeholders and the populations served; and

(f) Is usable by multiple payers, providers, hospitals, purchasers, public health, and communities as part of health improvement, care improvement, provider payment systems, benefit design, and administrative simplification for providers and hospitals.

(6) State agencies shall use the measure set developed under this section to inform and set benchmarks for their purchasing.

(7) The committee shall establish a public process to periodically evaluate the measure set and make additions or changes to the measure set as needed.

**NEW SECTION. Sec. 3.** A new section is added to chapter 48.43 RCW to read as follows:

(1) Each carrier offering or renewing a health benefit plan on or after January 1, 2016, must offer member transparency tools with certain price and quality information to enable the member to make treatment decisions based on cost, quality, and patient experience. The transparency tools must aim for best practices and, at a minimum:

(a) Must display cost data for common treatments within the following categories:

- (i) In-patient treatments;
- (ii) Outpatient treatments;
- (iii) Diagnostic tests; and
- (iv) Office visits;

(b) Recognizing integrated health care delivery systems focus on total cost of care, carrier's operating integrated care delivery systems may meet the requirement of (a) of this subsection by providing meaningful consumer data based on the total cost of care. This subsection applies only to the portion of enrollment a carrier offers pursuant to chapter 48.46 RCW and as part of an integrated delivery system, and does not exempt from (a) of this subsection coverage offered pursuant to chapter 48.21, 48.44, or 48.46 RCW if not part of an integrated delivery system;

(c) Are encouraged to display the cost for prescription medications on their member web site or through a link to a third party that manages the prescription benefits;

(d) Must include a patient review option or method for members to provide a rating or feedback on their experience with the medical provider that allows other members to see the patient review, the feedback must be monitored for appropriateness and validity, and the site may include independently compiled quality of care ratings of providers and facilities;

(e) Must allow members to access the estimated cost of the treatment, or the total cost of care, as set forth in (a) and (b) of this subsection on a portable electronic device;

(f) Must display options based on the selected search criteria for members to compare;

(g) Must display the estimated cost of the treatment, or total cost of the care episode, and the estimated out-of-pocket costs of the treatment for the member and display the application of personalized benefits such as deductibles and cost-sharing;

(h) Must display quality information on providers when available; and

(i) Are encouraged to display alternatives that are more cost-effective when there are alternatives available, such as the use of an ambulatory surgical center when one is available or medical versus surgical alternatives as appropriate.

(2) In addition to the required features on cost and quality information, the member transparency tools must include information to allow a provider and hospital search of in-network providers and hospitals with provider information including

specialists, distance from patient, the provider's contact information, the provider's education, board certification and other credentials, where to find information on malpractice history and disciplinary actions, affiliated hospitals and other providers in a clinic, and directions to provider offices and hospitals.

(3) Each carrier offering or renewing a health benefit plan on or after January 1, 2016, must provide enrollees with the performance information required by section 2717 of the patient protection and affordable care act, P.L. 111-148 (2010), as amended by the health care and education reconciliation act, P.L. 111-152 (2010), and any federal regulations or guidance issued under that section of the affordable care act.

(4) Each carrier offering or renewing a health benefit plan on or after January 1, 2016, must, within thirty days from the offer or renewal date, attest to the office of the insurance commissioner that the member transparency tools meet the requirements in this section and access to the tools is available on the home page within the health plan's secured member web site."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Mullet moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6228.

Senator Mullet spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Mullet that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6228.

The motion by Senator Mullet carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6228 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6228, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6228, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dassel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfs, Schoesler, Sheldon and Tom

ENGROSSED SUBSTITUTE SENATE BILL NO. 6228, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 7, 2014

MR. PRESIDENT:

FIFTY SEVENTH DAY, MARCH 10, 2014

The House passed SENATE BILL NO. 6413 with the following amendment(s): 6413 AMH ENGR H4346.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.61.5055 and 2013 2nd sp.s. c 35 s 13 are each amended to read as follows:

(1) **No prior offenses in seven years.** Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has no prior offense within seven years shall be punished as follows:

(a) **Penalty for alcohol concentration less than 0.15.** In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than three hundred sixty-four days. Twenty-four consecutive hours of the imprisonment may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(a)(i), the court may order not less than fifteen days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device or other separate alcohol monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended unless the court finds the offender to be indigent; or

(b) **Penalty for alcohol concentration at least 0.15.** In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than three hundred sixty-four days. Forty-eight consecutive hours of the imprisonment may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(b)(i), the court may order not less than thirty days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer or other separate alcohol monitoring device, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended unless the court finds the offender to be indigent.

(2) **One prior offense in seven years.** Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a

2014 REGULAR SESSION

violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within seven years shall be punished as follows:

(a) **Penalty for alcohol concentration less than 0.15.** In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than three hundred sixty-four days and sixty days of electronic home monitoring. In lieu of the mandatory minimum term of sixty days electronic home monitoring, the court may order at least an additional four days in jail or, if available in that county or city, a six-month period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390, and the court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer or other separate alcohol monitoring device, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Thirty days of imprisonment and sixty days of electronic home monitoring may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended unless the court finds the offender to be indigent; or

(b) **Penalty for alcohol concentration at least 0.15.** In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than three hundred sixty-four days and ninety days of electronic home monitoring. In lieu of the mandatory minimum term of ninety days electronic home monitoring, the court may order at least an additional six days in jail or, if available in that county or city, a six-month period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390, and the court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer or other separate alcohol monitoring device, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Forty-five days of imprisonment and ninety days of electronic home monitoring may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended unless the court finds the offender to be indigent.

(3) **Two or three prior offenses in seven years.** Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two or three prior offenses within seven years shall be punished as follows:

(a) **Penalty for alcohol concentration less than 0.15.** In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than three hundred sixty-four days, if available in that county or city, a six-month period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred twenty days of electronic home monitoring. In lieu of the mandatory minimum term of one hundred twenty days of electronic home monitoring, the court may order at least an additional eight days in jail. The court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer or other separate alcohol monitoring device, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Ninety days of imprisonment and one hundred twenty days of electronic home monitoring may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based; and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended unless the court finds the offender to be indigent; or

(b) **Penalty for alcohol concentration at least 0.15.** In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than three hundred sixty-four days, if available in that county or city, a six-month period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty days of electronic home monitoring. In lieu of the mandatory minimum term of one hundred fifty days of electronic home monitoring, the court may order at least an additional ten days in jail. The offender shall pay for the cost of the electronic monitoring. The court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer or other separate alcohol monitoring device, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. One hundred twenty days of imprisonment and one hundred fifty days of electronic home monitoring may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred

dollars of the fine may not be suspended unless the court finds the offender to be indigent.

(4) **Four or more prior offenses in ten years.** A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 shall be punished under chapter 9.94A RCW if:

(a) The person has four or more prior offenses within ten years; or

(b) The person has ever previously been convicted of:

(i) A violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(ii) A violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or

(iv) A violation of RCW 46.61.502(6) or 46.61.504(6).

(5) Monitoring.

(a) **Ignition interlock device.** The court shall require any person convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to comply with the rules and requirements of the department regarding the installation and use of a functioning ignition interlock device installed on all motor vehicles operated by the person.

(b) **Monitoring devices.** If the court orders that a person refrain from consuming any alcohol, the court may order the person to submit to alcohol monitoring through an alcohol detection breathalyzer device, transdermal sensor device, or other technology designed to detect alcohol in a person's system. The person shall pay for the cost of the monitoring, unless the court specifies that the cost of monitoring will be paid with funds that are available from an alternative source identified by the court. The county or municipality where the penalty is being imposed shall determine the cost.

(c) **Ignition interlock device substituted for 24/7 sobriety program monitoring.** In any county or city where a 24/7 sobriety program is available and verified by the Washington association of sheriffs and police chiefs, the court shall:

(i) Order the person to install and use a functioning ignition interlock or other device in lieu of such period of 24/7 sobriety program monitoring;

(ii) Order the person to a period of 24/7 sobriety program monitoring pursuant to subsections (1) through (3) of this section; or

(iii) Order the person to install and use a functioning ignition interlock or other device in addition to a period of 24/7 sobriety program monitoring pursuant to subsections (1) through (3) of this section.

(6) **Penalty for having a minor passenger in vehicle.** If a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 committed the offense while a passenger under the age of sixteen was in the vehicle, the court shall:

(a) Order the use of an ignition interlock or other device for an additional six months;

(b) In any case in which the person has no prior offenses within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504(6), order an additional twenty-four hours of imprisonment and a fine of not less than one thousand dollars and not more than five thousand dollars. One thousand dollars of the fine may not be suspended unless the court finds the offender to be indigent;

(c) In any case in which the person has one prior offense within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504(6), order an additional five days of imprisonment and a fine of not less than two thousand dollars and not more than five thousand dollars. One thousand dollars of the fine may not be suspended unless the court finds the offender to be indigent;

(d) In any case in which the person has two or three prior offenses within seven years, and except as provided in RCW

FIFTY SEVENTH DAY, MARCH 10, 2014

2014 REGULAR SESSION

46.61.502(6) or 46.61.504(6), order an additional ten days of imprisonment and a fine of not less than three thousand dollars and not more than ten thousand dollars. One thousand dollars of the fine may not be suspended unless the court finds the offender to be indigent.

**(7) Other items courts must consider while setting penalties.**

In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider the following:

(a) Whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property;

(b) Whether at the time of the offense the person was driving or in physical control of a vehicle with one or more passengers;

(c) Whether the driver was driving in the opposite direction of the normal flow of traffic on a multiple lane highway, as defined by RCW 46.04.350, with a posted speed limit of forty-five miles per hour or greater; and

(d) Whether a child passenger under the age of sixteen was an occupant in the driver's vehicle.

**(8) Treatment and information school.** An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

**(9) Driver's license privileges of the defendant.** The license, permit, or nonresident privilege of a person convicted of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs must:

(a) **Penalty for alcohol concentration less than 0.15.** If the person's alcohol concentration was less than 0.15, or if for reasons other than the person's refusal to take a test offered under RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) Where there has been no prior offense within seven years, be suspended or denied by the department for ninety days;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for two years; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for three years;

(b) **Penalty for alcohol concentration at least 0.15.** If the person's alcohol concentration was at least 0.15:

(i) Where there has been no prior offense within seven years, be revoked or denied by the department for one year;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for nine hundred days; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for four years; or

(c) **Penalty for refusing to take test.** If by reason of the person's refusal to take a test offered under RCW 46.20.308, there is no test result indicating the person's alcohol concentration:

(i) Where there have been no prior offenses within seven years, be revoked or denied by the department for two years;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for three years; or

(iii) Where there have been two or more previous offenses within seven years, be revoked or denied by the department for four years.

The department shall grant credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under this subsection for a suspension, revocation, or denial imposed under RCW 46.20.3101 arising out of the same incident.

Upon its own motion or upon motion by a person, a court may find, on the record, that notice to the department under RCW 46.20.270 has been delayed for three years or more as a result of a clerical or court error. If so, the court may order that the person's license, permit, or nonresident privilege shall not be revoked,

suspended, or denied for that offense. The court shall send notice of the finding and order to the department and to the person. Upon receipt of the notice from the court, the department shall not revoke, suspend, or deny the license, permit, or nonresident privilege of the person for that offense.

For purposes of this subsection (9), the department shall refer to the driver's record maintained under RCW 46.52.120 when determining the existence of prior offenses.

**(10) Probation of driving privilege.** After expiration of any period of suspension, revocation, or denial of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

**(11) Conditions of probation.** (a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes up to three hundred sixty-four days in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding five years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of liability insurance or other financial responsibility for the future pursuant to RCW 46.30.020; (ii) not driving or being in physical control of a motor vehicle within this state while having an alcohol concentration of 0.08 or more or a THC concentration of 5.00 nanograms per milliliter of whole blood or higher, within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol or drug concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drug. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i), (ii), or (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

**(12) Waiver of electronic home monitoring.** A court may waive the electronic home monitoring requirements of this chapter when:

(a) The offender does not have a dwelling, telephone service, or any other necessity to operate an electronic home monitoring system. However, if a court determines that an alcohol monitoring device utilizing wireless reporting technology is reasonably available, the court may require the person to obtain such a device during the period of required electronic home monitoring;

(b) The offender does not reside in the state of Washington; or

(c) The court determines that there is reason to believe that the offender would violate the conditions of the electronic home monitoring penalty.

Whenever the mandatory minimum term of electronic home monitoring is waived, the court shall state in writing the reason for

granting the waiver and the facts upon which the waiver is based, and shall impose an alternative sentence with similar punitive consequences. The alternative sentence may include, but is not limited to, use of an ignition interlock device, the 24/7 sobriety program monitoring, additional jail time, work crew, or work camp.

Whenever the combination of jail time and electronic home monitoring or alternative sentence would exceed three hundred sixty-four days, the offender shall serve the jail portion of the sentence first, and the electronic home monitoring or alternative portion of the sentence shall be reduced so that the combination does not exceed three hundred sixty-four days.

(13) **Extraordinary medical placement.** An offender serving a sentence under this section, whether or not a mandatory minimum term has expired, may be granted an extraordinary medical placement by the jail administrator subject to the standards and limitations set forth in RCW 9.94A.728(3).

(14) **Definitions.** For purposes of this section and RCW 46.61.502 and 46.61.504:

(a) A "prior offense" means any of the following:

(i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;

(ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;

(iii) A conviction for a violation of RCW 46.25.110 or an equivalent local ordinance;

(iv) A conviction for a violation of RCW 79A.60.040 or an equivalent local ordinance;

(v) A conviction for a violation of RCW 47.68.220 or an equivalent local ordinance;

(vi) A conviction for a violation of RCW 46.09.470(2) or an equivalent local ordinance;

(vii) A conviction for a violation of RCW 46.10.490(2) or an equivalent local ordinance;

(viii) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug, or a conviction for a violation of RCW 46.61.520 committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

~~((iv))~~ (ix) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug, or a conviction for a violation of RCW 46.61.522 committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

~~((v))~~ (x) A conviction for a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050 or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

~~((vi))~~ (xi) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), ~~((iii))~~ (vii), ~~((iv))~~ (ix), or ~~((v))~~ (x) of this subsection if committed in this state;

~~((vii))~~ (xii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance;

~~((viii))~~ (xiii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.5249, or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

~~((ix))~~ (xiv) A deferred prosecution granted in another state for a violation of driving or having physical control of a vehicle while

under the influence of intoxicating liquor or any drug if the out-of-state deferred prosecution is equivalent to the deferred prosecution under chapter 10.05 RCW, including a requirement that the defendant participate in a chemical dependency treatment program; or

~~((x))~~ (xv) A deferred sentence imposed in a prosecution for a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an equivalent local ordinance, if the charge under which the deferred sentence was imposed was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or a violation of RCW 46.61.520 or 46.61.522;

If a deferred prosecution is revoked based on a subsequent conviction for an offense listed in this subsection (14)(a), the subsequent conviction shall not be treated as a prior offense of the revoked deferred prosecution for the purposes of sentencing;

(b) "Treatment" means alcohol or drug treatment approved by the department of social and health services;

(c) "Within seven years" means that the arrest for a prior offense occurred within seven years before or after the arrest for the current offense; and

(d) "Within ten years" means that the arrest for a prior offense occurred within ten years before or after the arrest for the current offense.

**Sec. 2.** RCW 10.31.100 and 2013 2nd sp.s. c 35 s 22 are each amended to read as follows:

A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of the officer, except as provided in subsections (1) through (11) of this section.

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis, or involving the acquisition, possession, or consumption of alcohol by a person under the age of twenty-one years under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070 or 9A.52.080, shall have the authority to arrest the person.

(2) A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) An order has been issued of which the person has knowledge under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09, 26.10, 26.26, 26.50, or 74.34 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence, or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location or, in the case of an order issued under RCW 26.44.063, imposing any other restrictions or conditions upon the person; or

(b) A foreign protection order, as defined in RCW 26.52.010, has been issued of which the person under restraint has knowledge and the person under restraint has violated a provision of the foreign protection order prohibiting the person under restraint from contacting or communicating with another person, or excluding the person under restraint from a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or a violation of any provision for which the foreign protection order specifically indicates that a violation will be a crime; or

FIFTY SEVENTH DAY, MARCH 10, 2014

2014 REGULAR SESSION

(c) The person is sixteen years or older and within the preceding four hours has assaulted a family or household member as defined in RCW 10.99.020 and the officer believes: (i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that family or household members have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: (i) The intent to protect victims of domestic violence under RCW 10.99.010; (ii) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (iii) the history of domestic violence of each person involved, including whether the conduct was part of an ongoing pattern of abuse.

~~(d) The person has violated RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and the police officer has knowledge that the person has a prior offense as defined in RCW 46.61.5055 within ten years).~~

(3) Any police officer having probable cause to believe that a person has committed or is committing a violation of any of the following traffic laws shall have the authority to arrest the person:

- (a) RCW 46.52.010, relating to duty on striking an unattended car or other property;
- (b) RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;
- (c) RCW 46.61.500 or 46.61.530, relating to reckless driving or racing of vehicles;
- (d) RCW 46.61.502 or 46.61.504, relating to persons under the influence of intoxicating liquor or drugs;
- (e) RCW 46.61.503 or 46.25.110, relating to persons having alcohol or THC in their system;
- (f) RCW 46.20.342, relating to driving a motor vehicle while operator's license is suspended or revoked;
- (g) RCW 46.61.5249, relating to operating a motor vehicle in a negligent manner.

(4) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed in connection with the accident a violation of any traffic law or regulation.

(5)(a) A law enforcement officer investigating at the scene of a motor vessel accident may arrest the operator of a motor vessel involved in the accident if the officer has probable cause to believe that the operator has committed, in connection with the accident, a criminal violation of chapter 79A.60 RCW.

(b) A law enforcement officer investigating at the scene of a motor vessel accident may issue a citation for an infraction to the operator of a motor vessel involved in the accident if the officer has probable cause to believe that the operator has committed, in connection with the accident, a violation of any boating safety law of chapter 79A.60 RCW.

(6) Any police officer having probable cause to believe that a person has committed or is committing a violation of RCW 79A.60.040 shall have the authority to arrest the person.

(7) An officer may act upon the request of a law enforcement officer in whose presence a traffic infraction was committed, to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. The request by the

witnessing officer shall give an officer the authority to take appropriate action under the laws of the state of Washington.

(8) Any police officer having probable cause to believe that a person has committed or is committing any act of indecent exposure, as defined in RCW 9A.88.010, may arrest the person.

(9) A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that an order has been issued of which the person has knowledge under chapter 10.14 RCW and the person has violated the terms of that order.

(10) Any police officer having probable cause to believe that a person has, within twenty-four hours of the alleged violation, committed a violation of RCW 9A.50.020 may arrest such person.

(11) A police officer having probable cause to believe that a person illegally possesses or illegally has possessed a firearm or other dangerous weapon on private or public elementary or secondary school premises shall have the authority to arrest the person.

For purposes of this subsection, the term "firearm" has the meaning defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

(12) Except as specifically provided in subsections (2), (3), (4), and (7) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

(13) No police officer may be held criminally or civilly liable for making an arrest pursuant to subsection (2) or (9) of this section if the police officer acts in good faith and without malice.

(14) A police officer shall arrest and keep in custody, until release by a judicial officer on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that the person has violated RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and the police officer has knowledge that the person has a prior offense as defined in RCW 46.61.5055 within ten years."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Padden moved that the Senate concur in the House amendment(s) to Senate Bill No. 6413.

Senators Padden and Kline spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Padden that the Senate concur in the House amendment(s) to Senate Bill No. 6413.

The motion by Senator Padden carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6413 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 6413, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6413, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

SENATE BILL NO. 6413, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 5, 2014

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6265 with the following amendment(s): 6265-S.E AMH CODY H4485.1

On page 5, line 33, after "entity" insert "not covered by the federal health insurance portability and accountability act of 1996 and its implementing regulations"

On page 5, line 35, after "assessment" strike "and recommendation of health plan options" and insert "of health plan options and eligibility"

On page 6, line 4, after "navigator" insert "or navigator's employer" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Becker moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6265 and ask the House to recede therefrom.

Senators Becker and Frockt spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Becker that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6265 and ask the House to recede therefrom.

The motion by Senator Becker carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6265 and asked the House to recede therefrom by voice vote.

#### MESSAGE FROM THE HOUSE

March 7, 2014

MR. PRESIDENT:

The House passed SENATE BILL NO. 6415 with the following amendment(s): 6415 AMH APPG H4444.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9.94A.589 and 2002 c 175 s 7 are each amended to read as follows:

(1)(a) Except as provided in (b) (~~(c)~~) (c) or (d) of this subsection, whenever a person is to be sentenced for two or more current offenses, the sentence range for each current offense shall be determined by using all other current and prior convictions as if they were prior convictions for the purpose of the offender score: PROVIDED, That if the court enters a finding that some or all of the current offenses encompass the same criminal conduct then those

current offenses shall be counted as one crime. Sentences imposed under this subsection shall be served concurrently. Consecutive sentences may only be imposed under the exceptional sentence provisions of RCW 9.94A.535. "Same criminal conduct," as used in this subsection, means two or more crimes that require the same criminal intent, are committed at the same time and place, and involve the same victim. This definition applies in cases involving vehicular assault or vehicular homicide even if the victims occupied the same vehicle.

(b) Whenever a person is convicted of two or more serious violent offenses arising from separate and distinct criminal conduct, the standard sentence range for the offense with the highest seriousness level under RCW 9.94A.515 shall be determined using the offender's prior convictions and other current convictions that are not serious violent offenses in the offender score and the standard sentence range for other serious violent offenses shall be determined by using an offender score of zero. The standard sentence range for any offenses that are not serious violent offenses shall be determined according to (a) of this subsection. All sentences imposed under (~~(b)~~) this subsection (1)(b) shall be served consecutively to each other and concurrently with sentences imposed under (a) of this subsection.

(c) If an offender is convicted under RCW 9.41.040 for unlawful possession of a firearm in the first or second degree and for the felony crimes of theft of a firearm or possession of a stolen firearm, or both, the standard sentence range for each of these current offenses shall be determined by using all other current and prior convictions, except other current convictions for the felony crimes listed in this subsection (1)(c), as if they were prior convictions. The offender shall serve consecutive sentences for each conviction of the felony crimes listed in this subsection (1)(c), and for each firearm unlawfully possessed.

(d) All sentences imposed under RCW 46.61.502(6), 46.61.504(6), or 46.61.5055(4) shall be served consecutively with any sentences imposed under RCW 46.20.740 and 46.20.750.

(2)(a) Except as provided in (b) of this subsection, whenever a person while under sentence for conviction of a felony commits another felony and is sentenced to another term of confinement, the latter term shall not begin until expiration of all prior terms.

(b) Whenever a second or later felony conviction results in community supervision with conditions not currently in effect, under the prior sentence or sentences of community supervision the court may require that the conditions of community supervision contained in the second or later sentence begin during the immediate term of community supervision and continue throughout the duration of the consecutive term of community supervision.

(3) Subject to subsections (1) and (2) of this section, whenever a person is sentenced for a felony that was committed while the person was not under sentence for conviction of a felony, the sentence shall run concurrently with any felony sentence which has been imposed by any court in this or another state or by a federal court subsequent to the commission of the crime being sentenced unless the court pronouncing the current sentence expressly orders that they be served consecutively.

(4) Whenever any person granted probation under RCW 9.95.210 or 9.92.060, or both, has the probationary sentence revoked and a prison sentence imposed, that sentence shall run consecutively to any sentence imposed pursuant to this chapter, unless the court pronouncing the subsequent sentence expressly orders that they be served concurrently.

(5) In the case of consecutive sentences, all periods of total confinement shall be served before any partial confinement, community restitution, community supervision, or any other requirement or conditions of any of the sentences. Except for exceptional sentences as authorized under RCW 9.94A.535, if two or more sentences that run consecutively include periods of



FIFTY SEVENTH DAY, MARCH 10, 2014

community supervision, the aggregate of the community supervision period shall not exceed twenty-four months.

**Sec. 2.** RCW 46.20.740 and 2010 c 269 s 8 are each amended to read as follows:

(1) The department shall attach or imprint a notation on the driving record of any person restricted under RCW 46.20.720, 46.61.5055, or 10.05.140 stating that the person may operate only a motor vehicle equipped with a functioning ignition interlock device. The department shall determine the person's eligibility for licensing based upon written verification by a company doing business in the state that it has installed the required device on a vehicle owned or operated by the person seeking reinstatement. If, based upon notification from the interlock provider or otherwise, the department determines that an ignition interlock required under this section is no longer installed or functioning as required, the department shall suspend the person's license or privilege to drive. Whenever the license or driving privilege of any person is suspended or revoked as a result of noncompliance with an ignition interlock requirement, the suspension shall remain in effect until the person provides notice issued by a company doing business in the state that a vehicle owned or operated by the person is equipped with a functioning ignition interlock device.

(2) It is a gross misdemeanor for a person with such a notation on his or her driving record to operate a motor vehicle that is not so equipped.

(3) Any sentence imposed for a violation of subsection (2) of this section shall be served consecutively with any sentence imposed under RCW 46.20.750, 46.61.502, 46.61.504, or 46.61.5055.

**Sec. 3.** RCW 46.20.750 and 2005 c 200 s 2 are each amended to read as follows:

(1) A person who is restricted to the use of a vehicle equipped with an ignition interlock device and who tampers with the device or directs, authorizes, or requests another to tamper with the device, in order to circumvent the device by modifying, detaching, disconnecting, or otherwise disabling it, is guilty of a gross misdemeanor.

(2) A person who knowingly assists another person who is restricted to the use of a vehicle equipped with an ignition interlock device to circumvent the device or to start and operate that vehicle in violation of a court order is guilty of a gross misdemeanor. The provisions of this subsection do not apply if the starting of a motor vehicle, or the request to start a motor vehicle, equipped with an ignition interlock device is done for the purpose of safety or mechanical repair of the device or the vehicle and the person subject to the court order does not operate the vehicle.

(3) Any sentence imposed for a violation of subsection (1) of this section shall be served consecutively with any sentence imposed under RCW 46.20.740, 46.61.502, 46.61.504, or 46.61.5055.

**NEW SECTION. Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2014, in the omnibus appropriations act, this act is null and void."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Padden moved that the Senate concur in the House amendment(s) to Senate Bill No. 6415.

Senators Padden and Kline spoke in favor of the motion.

2014 REGULAR SESSION

The President Pro Tempore declared the question before the Senate to be the motion by Senator Padden that the Senate concur in the House amendment(s) to Senate Bill No. 6415.

The motion by Senator Padden carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6415 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 6415, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6415, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dandel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

SENATE BILL NO. 6415, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 7, 2014

MR. PRESIDENT:

The House passed ENGROSSED SENATE BILL NO. 6553 with the following amendment(s): 6553.E AMH JUDI H4434.1

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 6.21.110 and 1994 c 185 s 3 are each amended to read as follows:

(1) Upon the return of any sale of real estate, the clerk: (a) Shall enter the cause, on which the execution or order of sale issued, by its title, on the motion docket, and mark opposite the same: "Sale of land for confirmation"; (b) shall mail notice of the filing of the return of sale to all parties who have entered a written notice of appearance in the action and who have not had an order of default entered against them; (c) shall file proof of such mailing in the action; (d) shall apply the proceeds of the sale returned by the sheriff, or so much thereof as may be necessary, to satisfaction of the judgment, including interest as provided in the judgment, and shall pay any excess proceeds as provided in subsection (5) of this section by direction of court order; and (e) upon confirmation of the sale, shall deliver the original certificate of sale to the purchaser.

(2) The judgment creditor or successful purchaser at the sheriff's sale is entitled to an order confirming the sale at any time after twenty days have elapsed from the mailing of the notice of the filing of the sheriff's return, on motion with notice given to all parties who have entered a written notice of appearance in the action and who have not had an order of default entered against them, unless the judgment debtor, or in case of the judgment debtor's death, the representative, or any nondefaulting party to whom notice was sent shall file objections to confirmation with the clerk within twenty days after the mailing of the notice of the filing of such return.

(3) If objections to confirmation are filed, the court shall nevertheless allow the order confirming the sale, unless on the

hearing of the motion, it shall satisfactorily appear that there were substantial irregularities in the proceedings concerning the sale, to the probable loss or injury of the party objecting. In the latter case, the court shall disallow the motion and direct that the property be resold, in whole or in part, as the case may be, as upon an execution received as of that date.

(4) Upon a resale, the bid of the purchaser at the former sale shall be deemed to be renewed and continue in force, and no bid shall be taken, except for a greater amount. If on resale the property sells for a greater amount to any person other than the former purchaser, the clerk shall first repay to the former purchaser out of the proceeds of the resale the amount of the former purchaser's bid together with interest as is provided in the judgment.

(5)(a) If, after ~~((the satisfaction))~~ confirmation of the sale and the judgment is satisfied, there ~~((be))~~ are any proceeds of the sale remaining, the clerk shall pay such proceeds, as provided for in (b) of this subsection, to all interests in, or liens against, the property eliminated by sale under this section in the order of priority that the interest, lien, or claim attached to the property, as determined by the court. Any remaining proceeds shall be paid to the judgment debtor, or the judgment debtor's representative, as the case may be, before the order is made upon the motion to confirm the sale only if the party files with the clerk a waiver of all objections made or to be made to the proceedings concerning the sale; otherwise, the excess proceeds shall remain in the custody of the clerk until the sale of the property has been disposed of (~~(; but if the sale be confirmed, such excess proceeds shall be paid to the judgment debtor or representative as a matter of course)~~).

(b) Anyone seeking disbursement of surplus funds shall file a motion requesting disbursement in the superior court for the county in which the surplus funds are deposited. Notice of the motion shall be served upon or mailed to all persons who had an interest in the property at the time of sale, and any other party who has entered an appearance in the proceeding, not less than twenty days prior to the hearing of the motion. The clerk shall not disburse such remaining proceeds except upon order of the superior court of such county.

(6) The purchaser shall file the original certificate of sale for record with the recording officer in the county in which the property is located.

**Sec. 2.** RCW 61.24.080 and 1998 c 295 s 10 are each amended to read as follows:

The trustee shall apply the proceeds of the sale as follows:

(1) To the expense of sale, including a reasonable charge by the trustee and by his or her attorney: PROVIDED, That the aggregate of the charges by the trustee and his or her attorney, for their services in the sale, shall not exceed the amount which would, by the superior court of the county in which the trustee's sale occurred, have been deemed a reasonable attorney fee, had the trust deed been foreclosed as a mortgage in a noncontested action in that court;

(2) To the obligation secured by the deed of trust; and

(3) The surplus, if any, less the clerk's filing fee, shall be deposited, together with written notice of the amount of the surplus, a copy of the notice of trustee's sale, and an affidavit of mailing as provided in this subsection, with the clerk of the superior court of the county in which the sale took place. The trustee shall mail copies of the notice of the surplus, the notice of trustee's sale, and the affidavit of mailing to each party to whom the notice of trustee's sale was sent pursuant to RCW 61.24.040(1). The clerk shall index such funds under the name of the grantor as set out in the recorded notice. Upon compliance with this subsection, the trustee shall be discharged from all further responsibilities for the surplus. Interests in, or liens or claims of liens against the property eliminated by sale under this section shall attach to the surplus in the order of priority that it had attached to the property, as determined by the court. A party seeking disbursement of the surplus funds shall file a motion

requesting disbursement in the superior court for the county in which the surplus funds are deposited. Notice of the motion shall be personally served upon, or mailed in the manner specified in RCW 61.24.040(1)(b), to all parties to whom the trustee mailed notice of the surplus, and any other party who has entered an appearance in the proceeding, not less than twenty days prior to the hearing of the motion. The clerk shall not disburse such surplus except upon order of the superior court of such county.

**Sec. 3.** RCW 6.17.140 and 1988 c 231 s 11 are each amended to read as follows:

The sheriff shall, at a time as near before or after service of the writ on, or mailing of the writ to, the judgment debtor as is possible, execute the writ as follows:

(1) If property has been attached, the sheriff shall indorse on the execution, and pay to the clerk forthwith, if he or she has not already done so, the amount of the proceeds of sales of perishable property or debts due the defendant previously received, sufficient to satisfy the judgment.

(2) If the judgment is not then satisfied, and property has been attached and remains in custody, the sheriff shall sell the same, or sufficient thereof to satisfy the judgment. When property has been attached and it is probable that such property will not be sufficient to satisfy the judgment, the sheriff may, on instructions from the judgment creditor, levy on other property of the judgment debtor without delay.

(3) If then any portion of the judgment remains unsatisfied, or if no property has been attached or the same has been discharged, the sheriff shall levy on the property of the judgment debtor, sufficient to satisfy the judgment, in the manner described in RCW 6.17.160.

(4) If, after the judgment is satisfied, any property remains in custody, the sheriff shall deliver it to the judgment debtor.

(5) Until a levy, personal property shall not be affected by the execution.

(6) When property has been sold or debts received on execution, the sheriff shall pay the proceeds to the clerk who issued the writ, for satisfaction of the judgment as commanded in the writ or for ~~((return))~~ payment of any excess proceeds to all interests in, or liens against, the property eliminated by the sale in the order of priority that the interest, lien, or claim attached to the property, as determined by the court. Any remaining proceeds shall be paid to the judgment debtor. No sheriff or other officer may retain any moneys collected on execution more than twenty days before paying the same to the clerk of the court who issued the writ.

**Sec. 4.** RCW 6.17.150 and 1987 c 442 s 415 are each amended to read as follows:

Upon receipt of proceeds from the sheriff on execution, the clerk shall notify the party to whom the same is payable, and pay over the amount to that party as required by law. If any proceeds remain after satisfaction of the judgment, the clerk shall pay the excess to all interests in, or liens against, the property eliminated by the sale in the order of priority that the interest, lien, or claim attached to the property, as determined by the court. Any remaining proceeds shall be paid to the judgment debtor."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Angel moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 6553.

Senator Angel spoke in favor of the motion.

FIFTY SEVENTH DAY, MARCH 10, 2014

2014 REGULAR SESSION

The President Pro Tempore declared the question before the Senate to be the motion by Senator Angel that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 6553.

The motion by Senator Angel carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 6553 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6553, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6553, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

ENGROSSED SENATE BILL NO. 6553, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 6, 2014

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 6163 with the following amendment(s): 6163-S2 AMH ED H4343.3

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that studies have documented that many students experience learning losses when they do not engage in educational activities during the summer. The legislature further finds that research shows that summer learning loss contributes to educational opportunity gaps between students, and that falling behind in academics can be a predictor of whether a student will drop out of school. The legislature recognizes that such academic regression has a disproportionate impact on low-income students.

(2) The legislature further finds that expanded learning opportunities, including those offered by partnerships between schools and community-based organizations, create enriching experiences for youth, with activities that complement and support classroom-based instruction. The legislature acknowledges that access to quality expanded learning opportunities during the school year and summer helps mitigate summer learning loss and improves academic performance, attendance, on-time grade advancement, and classroom behaviors.

(3) Therefore the legislature intends to build capacity, identify best practices, leverage local resources, and promote a sustainable expanded learning opportunities system by providing an infrastructure that helps coordinate expanded learning opportunities throughout the state. To the extent funds are provided for this purpose, the legislature also intends to authorize a pilot program specifically to combat summer learning loss through expanded learning opportunities, which will provide the opportunity to

evaluate the effectiveness of an extended school year in improving student achievement, closing the educational opportunity gap, and providing successful models for other districts to follow.

**NEW SECTION. Sec. 2. DEFINITION OF EXPANDED LEARNING OPPORTUNITIES.** As used in this section and sections 3 through 7 of this act, "expanded learning opportunities" means:

(1) Culturally responsive enrichment and learning activities, which may focus on academic and nonacademic areas; the arts; civic engagement; service-learning; science, technology, engineering, and mathematics; and competencies for college and career readiness;

(2) School-based programs that provide extended learning and enrichment for students beyond the traditional school day, week, or calendar; and

(3) Structured, intentional, and creative learning environments outside the traditional school day that are provided by community-based organizations in partnership with schools and align in-school and out-of-school learning through activities that complement classroom-based instruction.

**NEW SECTION. Sec. 3. CREATION OF COUNCIL.** (1) The expanded learning opportunities council is established to advise the governor, the legislature, and the superintendent of public instruction regarding a comprehensive expanded learning opportunities system, with particular attention paid to solutions to summer learning loss.

(2) The council shall provide a vision, guidance, assistance, and advice related to potential improvement and expansion of summer learning opportunities, school year calendar modifications that will help reduce summer learning loss, increasing partnerships between schools and community-based organizations to deliver expanded learning opportunities, and other current or proposed programs and initiatives across the spectrum of early elementary through secondary education that could contribute to a statewide system of expanded learning opportunities.

(3) The council shall identify fiscal, resource, and partnership opportunities; coordinate policy development; set quality standards; promote evidence-based strategies; and develop a comprehensive action plan designed to implement expanded learning opportunities, address summer learning loss, provide academic supports, build strong partnerships between schools and community-based organizations, and track performance of expanded learning opportunities in closing the opportunity gap.

(4) When making recommendations regarding evidence-based strategies, the council shall consider the best practices on the state menus developed in accordance with RCW 28A.165.035 and 28A.655.235.

(5) The superintendent of public instruction shall convene the expanded learning opportunities council. The members of the council must have experience with expanded learning opportunities and include groups and agencies representing diverse student interests and geographical locations across the state. Up to fifteen participants, agencies, organizations, or individuals may be invited to participate in the council, and the membership shall include the following:

(a) Three representatives from nonprofit community-based organizations;

(b) One representative from regional work force development councils;

(c) One representative from each of the following organizations or agencies:

(i) The Washington state school directors' association;

(ii) The state-level association of school administrators;

(iii) The state-level association of school principals;

(iv) The state board of education;

- (v) The statewide association representing certificated classroom teachers and educational staff associates;
- (vi) The office of the superintendent of public instruction;
- (vii) The state-level parent-teacher association;
- (viii) Higher education; and
- (ix) A nonprofit organization with statewide experience in expanded learning opportunities frameworks.

(6) Staff support for the expanded learning opportunity council shall be provided by the office of the superintendent of public instruction and other state agencies as necessary. Appointees of the council shall be selected by May 30, 2014. The council shall hold its first meeting before August 1, 2014. At the first meeting, the council shall determine regularly scheduled meeting times and locations.

**NEW SECTION. Sec. 4. REPORTS FROM COUNCIL.**

(1) The expanded learning opportunities council shall provide a report to the governor and the legislature by December 1, 2014, and each December 1st thereafter until December 1, 2018, that summarizes accomplishments, measures progress, and contains recommendations regarding continued development of an expanded learning opportunities system and reducing summer learning loss.

(2) If funds are appropriated for a summer knowledge improvement pilot program as provided under sections 5 through 7 of this act or other initiatives to reduce summer learning loss or increase expanded learning opportunities, the expanded learning opportunities council shall monitor the progress of the program or initiative and serve as a resource for participating schools and community-based organizations. The council shall also oversee an evaluation of the effectiveness of the program or initiative in reducing summer learning loss and improving student academic progress.

(3) If new funds are not appropriated for a summer knowledge improvement pilot program or other initiatives to reduce summer learning loss, the first report from the council, and any subsequent reports as necessary, shall include recommendations for a framework and action plan for a program to reduce summer learning loss through the provision of state funds for additional student learning days in elementary schools with significant populations of low-income students. The council may also recommend additional strategies to reduce summer learning loss, including through expanded learning opportunities offered in partnership between schools and community-based organizations.

**NEW SECTION. Sec. 5. SUMMER KNOWLEDGE IMPROVEMENT PILOT PROGRAM.** (1) Subject to funds being appropriated for this specific purpose, the summer knowledge improvement pilot program is created to provide state funding for an additional twenty student learning days for three consecutive school years in selected schools for students to receive academic instruction outside of the school year established for other schools in the school district.

(2) If appropriated, state funding for each school in the pilot program shall be equal to twenty days of the average daily per student amount of all basic education and nonbasic education funding provided by the state to the school for the regular one hundred eighty-day school year, including for pupil transportation. Nonstate-provided funds may also be used to support the pilot program.

(3) The purpose of the pilot program is to implement an extended school year to combat summer learning loss and provide an opportunity to evaluate the effectiveness of an extended school year in improving student achievement, closing the educational opportunity gap, and providing successful models for other districts to follow.

**NEW SECTION. Sec. 6. PLAN PROCESS AND COMPONENTS.** (1) Any school district with an eligible school may submit a plan to the office of the superintendent of public

instruction to participate in the summer knowledge improvement pilot program. A plan may address one or more eligible schools. The office shall establish timelines for submitting and reviewing applications.

(2) For the purposes of this section, "eligible school" means any school that provides instruction to students in at least grades kindergarten through five where at least seventy-five percent of the enrolled students qualify for free and reduced-price meals.

(3) The school district board of directors must solicit input on the design of the plan from staff at the school, parents, and the community, including at an open public meeting. The final plan must be adopted by the school district board of directors at a subsequent open public meeting before the plan is submitted to the office of the superintendent of public instruction.

(4) A plan must include, but is not limited to, the following components:

(a) Proposed best practices and evidence-based strategies, curriculum, and materials for improving student achievement and closing the educational opportunity gap to be implemented over the extra twenty days for all students enrolled in the school. The best practices and evidence-based strategies, curriculum, and materials must be comparable to or higher in academic rigor than those used during the regular school year;

(b) A description of when the additional twenty days will be provided;

(c) Identification of the measures that the school district will use in assessing student achievement;

(d) Evidence that the principal of the school and at least seventy percent of the certificated and classified staff who work in the school at least two days per week agree to the plan;

(e) Whether the school will collaborate with community-based organizations to provide support for students during the additional twenty days and for the rest of the summer, and if so, the details of this collaboration; and

(f) An agreement to provide information necessary for a program evaluation.

**NEW SECTION. Sec. 7. SELECTION OF SCHOOLS AND DISTRICTS.** (1) The office of the superintendent of public instruction must review the plans submitted in accordance with section 6 of this act and select up to ten schools for participation in the pilot program, or as many schools as can be supported through the appropriated funds. To the extent practicable, the selected school districts shall be from diverse geographic regions of the state and include different sizes of school districts and schools.

(2) The selection criteria must include, but are not limited to, the following determinations:

(a) All of the required plan components are completed;

(b) The likelihood that the proposed best practices and evidence-based strategies, curriculum, and materials will improve student achievement and close the educational opportunity gap; and

(c) Any additional criteria that the office of the superintendent of public instruction deems necessary to ensure a high quality pilot program.

**NEW SECTION. Sec. 8.** Sections 2 through 7 of this act are each added to chapter 28A.630 RCW.

**NEW SECTION. Sec. 9.** This act expires August 31, 2019." Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Billig moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6163.

Senator Billig spoke in favor of the motion.

FIFTY SEVENTH DAY, MARCH 10, 2014

2014 REGULAR SESSION

The President Pro Tempore declared the question before the Senate to be the motion by Senator Billig that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6163.

The motion by Senator Billig carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 6163 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6163, as amended by the House.

## ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6163, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Voting nay: Senator Dansel

SECOND SUBSTITUTE SENATE BILL NO. 6163, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MESSAGE FROM THE HOUSE

March 5, 2014

## MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6199 with the following amendment(s): 6199-S AMH AGNR H4402.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 76.04.005 and 2007 c 480 s 12 are each amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Additional fire hazard" means a condition existing on any land in the state:

(a) Covered wholly or in part by forest debris which is likely to further the spread of fire and thereby endanger life or property; or

(b) When, due to the effects of disturbance agents, broken, down, dead, or dying trees exist on forest land in sufficient quantity to be likely to further the spread of fire within areas covered by a forest health hazard warning or order issued by the commissioner of public lands under RCW 76.06.180. The term "additional fire hazard" does not include green trees or snags left standing in upland or riparian areas under the provisions of RCW 76.04.465 or chapter 76.09 RCW.

(2) "Closed season" means the period between April 15<sup>th</sup> and October 15<sup>th</sup>, unless the department designates different dates because of prevailing fire weather conditions.

(3) "Department" means the department of natural resources, or its authorized representatives, as defined in chapter 43.30 RCW.

(4) "Department protected lands" means all lands subject to the forest protection assessment under RCW 76.04.610 or covered

under contract or agreement pursuant to RCW 76.04.135 by the department.

(5) "Disturbance agent" means those forces that damage or kill significant numbers of forest trees, such as insects, diseases, wind storms, ice storms, and fires.

(6) "Emergency fire costs" means those costs incurred or approved by the department for emergency forest fire suppression, including the employment of personnel, rental of equipment, and purchase of supplies over and above costs regularly budgeted and provided for nonemergency fire expenses for the biennium in which the costs occur.

(7) "Forest debris" includes forest slash, chips, and any other vegetative residue resulting from activities on forest land.

(8) "Forest fire service" includes all wardens, rangers, and other persons employed especially for preventing or fighting forest fires.

(9) "Forest land" means any unimproved lands which have enough trees, standing or down, or flammable material, to constitute in the judgment of the department, a fire menace to life or property. Sagebrush and grass areas east of the summit of the Cascade mountains may be considered forest lands when such areas are adjacent to or intermingled with areas supporting tree growth. Forest land, for protection purposes, does not include structures.

(10) "Forest landowner," "owner of forest land," "landowner," or "owner" means the owner or the person in possession of any public or private forest land.

(11) "Forest material" means forest slash, chips, timber, standing or down, or other vegetation.

(12) "Landowner operation" means every activity, and supporting activities, of a forest landowner and the landowner's agents, employees, or independent contractors or permittees in the management and use of forest land subject to the forest protection assessment under RCW 76.04.610 for the primary benefit of the owner. The term includes, but is not limited to, the growing and harvesting of forest products, the development of transportation systems, the utilization of minerals or other natural resources, and the clearing of land. The term does not include recreational and/residential activities not associated with these enumerated activities.

(13) "Participating landowner" means an owner of forest land whose land is subject to the forest protection assessment under RCW 76.04.610.

(14) "Slash" means organic forest debris such as tree tops, limbs, brush, and other dead flammable material remaining on forest land as a result of a landowner operation.

(15) "Slash burning" means the planned and controlled burning of forest debris on forest lands by broadcast burning, underburning, pile burning, or other means, for the purposes of silviculture, hazard abatement, or reduction and prevention or elimination of a fire hazard.

(16) "Suppression" means all activities involved in the containment and control of forest fires, including the patrolling thereof until such fires are extinguished or considered by the department to pose no further threat to life or property.

(17) "Unimproved lands" means those lands that will support grass, brush and tree growth, or other flammable material when such lands are not cleared or cultivated and, in the opinion of the department, are a fire menace to life and property.

(18) "Exploding target" means a device that is designed or marketed to ignite or explode when struck by firearm ammunition or other projectiles.

(19) "Incendiary ammunition" means ammunition that is designed to ignite or explode upon impact with or penetration of a target or designed to trace its course in the air with a trail of smoke, chemical incandescence, or fire.

(20) "Sky lantern" means an unmanned self-contained luminary

device that uses heated air produced by an open flame or produced by another source to become or remain airborne.

**Sec. 2.** RCW 76.04.455 and 1986 c 100 s 29 are each amended to read as follows:

(1)(a) ~~Except as otherwise provided in this subsection, it is unlawful ((during the closed season)) for any person to ((throw away)), during the closed season:~~

(i) ~~Discard~~ any lighted tobacco, cigars, cigarettes, matches, fireworks, charcoal, or other lighted material ~~((or to))~~, discharge any ~~((tracer or))~~ incendiary ammunition ~~((in))~~, release a sky lantern, or detonate an exploding target on or over any forest, brush, range, or grain areas~~((~~

~~—(2) It is unlawful during the closed season for any individual to smoke)); or~~

(ii) Smoke any flammable material when in forest or brush areas except on roads, cleared landings, gravel pits, or any similar area free of flammable material.

(b) The prohibitions contained in this subsection do not apply to the detonation of nonflammable exploding targets on any forest, brush, range, or grain areas if the person detonating the nonflammable exploding target:

(i) Has lawful possession and control of the land in question; or

(ii) Has prior written permission for the activity from the person who owns or has lawful possession and control of the land in question.

(c) The prohibitions contained in this subsection do not apply to suppression actions authorized or conducted by the department under the authority of this chapter.

(2)(a) Except as otherwise provided in this subsection, it is unlawful for any person to, during any time outside of the closed season, discharge any incendiary ammunition, release a sky lantern, or detonate an exploding target on or over any forest, brush, range, or grain areas.

(b) The prohibitions contained in this subsection do not apply if the person conducting the otherwise prohibited action:

(i) Has lawful possession and control of the land in question; or

(ii) Has prior written permission for the activity from the person who owns or has lawful possession and control of the land in question.

(3) Every conveyance operated through or above forest, range, brush, or grain areas ~~((shall))~~ must be equipped in each compartment with a suitable receptacle for the disposition of lighted tobacco, cigars, cigarettes, matches, or other flammable material.

(4) Every person operating a public conveyance through or above forest, range, brush, or grain areas shall post a copy of this section in a conspicuous place within the smoking compartment of the conveyance; and every person operating a saw mill or a logging camp in any such areas shall post a copy of this section in a conspicuous place upon the ground or buildings of the milling or logging operation."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Braun moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6199.

Senator Braun spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Braun that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6199.

The motion by Senator Braun carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6199 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6199, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6199, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dangel, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

SUBSTITUTE SENATE BILL NO. 6199, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 5, 2014

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6279 with the following amendment(s): 6279-S AMH JUDI H4430.1

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. The legislature finds that recent decisions of the United States supreme court and the Washington state supreme court require law enforcement to obtain the review of a neutral and disinterested magistrate and the issuance of a search warrant more frequently before proceeding with a criminal investigation. The legislature intends to accommodate this requirement by creating effective and timely access to magistrates for purposes of reviewing search warrant applications across the state of Washington. This act does not change the legal standards for issuing a search warrant or the legal standards for review of an issued search warrant.

NEW SECTION. Sec. 2. A new section is added to chapter 2.20 RCW to read as follows:

Any district or municipal court judge, in the county in which the offense is alleged to have occurred, may issue a search warrant for any person or evidence located anywhere within the state.

NEW SECTION. Sec. 3. A new section is added to chapter 10.79 RCW to read as follows:

(1) Any magistrate as defined by RCW 2.20.010, when satisfied that there is probable cause, may upon application supported by oath or affirmation, issue a search warrant to search for and seize any: (a) Evidence of a crime; (b) contraband, the fruits of crime, or things otherwise criminally possessed; (c) weapons or other things by means of which a crime has been committed or reasonably appears about to be committed; or (d) person for whose arrest there is probable cause or who is unlawfully restrained.

(2) The application may be provided or transmitted to the magistrate by telephone, e-mail, or any other reliable method.

(3) If the magistrate finds that probable cause for the issuance of a warrant exists, the magistrate must issue a warrant or direct an

FIFTY SEVENTH DAY, MARCH 10, 2014

2014 REGULAR SESSION

individual whom the magistrate authorizes to affix the magistrate's signature to a warrant identifying the property or person and naming or describing the person, place, or thing to be searched. The magistrate may communicate permission to affix the magistrate's signature to the warrant by telephone, e-mail, or any other reliable method.

(4) The evidence in support of the finding of probable cause and a record of the magistrate's permission to affix the magistrate's signature to the warrant shall be preserved and shall be filed with the issuing court as required by CrRLJ 2.3 or CrR 2.3.

Sec. 4. RCW 9A.72.085 and 1981 c 187 s 3 are each amended to read as follows:

(1) Whenever, under any law of this state or under any rule, order, or requirement made under the law of this state, any matter in an official proceeding is required or permitted to be supported, evidenced, established, or proved by a person's sworn written statement, declaration, verification, certificate, oath, or affidavit, the matter may with like force and effect be supported, evidenced, established, or proved in the official proceeding by an unsworn written statement, declaration, verification, or certificate, which:

- ((1)) (a) Recites that it is certified or declared by the person to be true under penalty of perjury;
- ((2)) (b) Is subscribed by the person;
- ((3)) (c) States the date and place of its execution; and
- ((4)) (d) States that it is so certified or declared under the laws of the state of Washington.

(2) The certification or declaration may be in substantially the following form:

"I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct":

.....

(Date and Place)

(Signature)

(3) For purposes of this section, a person subscribes to an unsworn written statement, declaration, verification, or certificate by:

- (a) Affixing or placing his or her signature as defined in RCW 9A.04.110 on the document;
- (b) Attaching or logically associating his or her digital signature or electronic signature as defined in RCW 19.34.020 to the document;
- (c) Affixing or logically associating his or her signature in the manner described in general rule 30 to the document if he or she is a licensed attorney; or
- (d) Affixing or logically associating his or her full name, department or agency, and badge or personnel number to any document that is electronically submitted to a court, a prosecutor, or a magistrate from an electronic device that is owned, issued, or maintained by a criminal justice agency if he or she is a law enforcement officer.

(4) This section does not apply to writings requiring an acknowledgment, depositions, oaths of office, or oaths required to be taken before a special official other than a notary public."

Correct the title. and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kline moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6279.

Senators Kline and Padden spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Kline that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6279.

The motion by Senator Kline carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6279 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6279, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6279, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Darneille, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Liias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Voting nay: Senators Dansel and Hasegawa

SUBSTITUTE SENATE BILL NO. 6279, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2014

MR. PRESIDENT:

The House passed ENGROSSED SENATE BILL NO. 6501 with the following amendment(s): 6501.E AMH ENVI H4395.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 70.95I.020 and 1991 c 319 s 303 are each amended to read as follows:

- (1) Each local government and its local hazardous waste plan under RCW 70.105.220 is required to include a used oil recycling element. This element shall include:
  - (a) A plan to reach the local goals for household used oil recycling established by the local government and the department under RCW 70.95I.030. The plan shall, to the maximum extent possible, incorporate voluntary agreements with the private sector and state agencies to provide sites for the collection of used oil. Where provided, the plan shall also incorporate residential collection of used oil;
  - (b) A plan for enforcing the sign and container ordinances required by RCW 70.95I.040;
  - (c) A plan for public education on used oil recycling; ~~((and))~~
  - (d) A plan for addressing best management practices as provided for under RCW 70.95I.030; and
  - (e) An estimate of funding needed to implement the requirements of this chapter. This estimate shall include a budget reserve for disposal of contaminated oil detected at any public used oil collection site administered by the local government.

(2) By July 1, 1993, each local government or combination of contiguous local governments shall submit its used oil recycling element to the department. The department shall approve or

disapprove the used oil recycling element by January 1, 1994, or within ninety days of submission, whichever is later. The department shall approve or disapprove the used oil recycling element if it determines that the element is consistent with this chapter and the guidelines developed by the department under RCW 70.951.030.

(3) Each local government, or combination of contiguous local governments, shall submit an annual statement to the department describing the number of used oil collection sites and the quantity of household used oil recycled for the jurisdiction during the previous calendar year. The first statement shall be due April 1, 1994. Subsequent statements shall be due April 1st of each year.

(4) Nothing in this section shall be construed to require a city or county to construct or operate a public used oil collection site.

**Sec. 2.** RCW 70.951.030 and 1991 c 319 s 304 are each amended to read as follows:

(1) ~~((By July 1, 1992,))~~ The department shall, in consultation with local governments, ~~((prepare))~~ maintain guidelines for the used oil recycling elements required by RCW 70.951.020 and, by July 1, 2015, shall develop best management practices for preventing and managing polychlorinated biphenyl contamination at public used oil collection sites.

(a) The guidelines shall:

~~((a))~~ (i) Require development of local collection and rerefining goals for household used oil for each entity preparing a used oil recycling element under RCW 70.951.020;

~~((b))~~ (ii) Require local government to recommend the number of used oil collection sites needed to meet the local goals. The department shall establish criteria regarding minimum levels of used oil collection sites;

~~((c))~~ (iii) Require local government to identify locations suitable as public used oil collection sites as described under RCW 70.951.020(1)(a).

(b) The best management practices for preventing and managing polychlorinated biphenyl contamination at public used oil collection sites must include, at a minimum:

(i) Tank testing requirements;

(ii) Contaminated tank labeling and security measures;

(iii) Contaminated tank cleanup standards;

(iv) Proper contaminated used oil disposal as required under chapter 70.105 RCW and 40 C.F.R. Part 761;

(v) Spill control measures; and

(vi) Model contract language for contracts with used oil collection vendors.

(2) The department may waive all or part of the specific requirements of RCW 70.951.020 if a local government demonstrates to the satisfaction of the department that the objectives of this chapter have been met.

(3) The department may prepare and implement a used oil recycling plan for any local government failing to complete the used oil recycling element of the plan.

(4) The department shall develop statewide collection and rerefining goals for household used oil for each calendar year beginning with calendar year 1994. Goals shall be based on the estimated statewide collection and rerefining rate for calendar year 1993, and shall increase each year until calendar year 1996, when the rate shall be eighty percent.

(5) By July 1, ~~((1993))~~ 2015, the department shall ~~((prepare))~~ update the guidelines establishing statewide equipment and operating standards for public used oil collection sites. The updated guidelines must include the best management practices for prevention and management of contaminated used oil developed pursuant to subsection (1) of this section and a process for how to petition the legislature for relief of extraordinary costs incurred with the management and disposal of contaminated used oil. In addition, the standards shall:

(a) Allow the use of used oil collection igloos and other types of portable used oil collection tanks;

(b) Prohibit the disposal of nonhousehold-generated used oil;

(c) Limit the amount of used oil deposited to five gallons per household per day;

(d) Ensure adequate protection against leaks and spills; and

(e) Include other requirements deemed appropriate by the department.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.21A RCW to read as follows:

(1) Cities and counties may submit a petition to the department for reimbursement of extraordinary costs associated with managing unforeseen consequences of used oil contaminated with polychlorinated biphenyl and compliance with United States environmental protection agency enforcement orders and enforcement-related agreements.

(2) The department, in consultation with city and county moderate risk waste coordinators, the United States environmental protection agency, and other stakeholders, must process and prioritize city and county petitions that meet the following conditions:

(a) The petitioning city or county has followed and met:

(i) The updated best management practices guidelines for the collection and management of used oil; and

(ii) The best management practices for preventing and managing polychlorinated biphenyl contamination, as required under RCW 70.951.030; and

(b) The department has determined that:

(i) The costs to the petitioning city or county for disposal of the contaminated oil or for compliance with United States environmental protection agency enforcement orders or enforcement related agreements are extraordinary; and

(ii) The city or county could not reasonably accommodate or anticipate the extraordinary costs in their normal budget processes by following and meeting the best management practices for oil contaminated with polychlorinated biphenyl.

(3) Before January 1st of each year, the department must develop and submit to the appropriate fiscal committees of the senate and house of representatives a prioritized list of submitted petitions that the department recommends for funding by the legislature. It is the intent of the legislature that if funded, the reimbursement of extraordinary city or county costs associated with polychlorinated biphenyl management and compliance activities come from the model toxics control accounts."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Ericksen moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 6501.

Senator Ericksen spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Ericksen that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 6501.

The motion by Senator Ericksen carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 6501 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6501, as amended by the House.



FIFTY SEVENTH DAY, MARCH 10, 2014

2014 REGULAR SESSION

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6501, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Benton, Billig, Braun, Brown, Chase, Cleveland, Conway, Dammeier, Dandel, Darneille, Eide, Erickson, Fain, Fraser, Frockt, Hargrove, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, King, Kline, Kohl-Welles, Lias, Litzow, McAuliffe, McCoy, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon and Tom

Absent: Senator Hasegawa

ENGROSSED SENATE BILL NO. 6501, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 5:59 p.m., on motion of Senator Fain, the Senate adjourned until 10:00 a.m. Tuesday, March 11, 2014.

BRAD OWEN, President of the Senate

HUNTER G. GOODMAN, Secretary of the Senate



FIFTY SEVENTH DAY, MARCH 10, 2014

2014 REGULAR SESSION

2555	Messages .....	3	Other Action .....	25
5064-S2	Final Passage as amended by House .....	37	6228-S	Final Passage as amended by House .....
	Messages .....	30		Messages .....
	Other Action .....	37		Other Action .....
5775	Final Passage as amended by House .....	14	6242-S	Final Passage as amended by House .....
	Messages .....	14		Messages .....
	Other Action .....	14		Other Action .....
5859-S	Final Passage as amended by House .....	38	6265-S	Messages .....
	Messages .....	37		48
	Other Action .....	37	6279-S	Final Passage as amended by House .....
5977-S	Final Passage as amended by House .....	20		55
	Messages .....	18		Messages .....
	Other Action .....	20		54
6014-S	Final Passage as amended by House .....	38		Other Action .....
	Messages .....	38	6413	Final Passage as amended by House .....
	Other Action .....	38		48
6016-S	Final Passage as amended by House .....	16		Messages .....
	Messages .....	14		43
	Other Action .....	15		Other Action .....
6041-S	Final Passage as amended by House .....	13	6415	Final Passage as amended by House .....
	Messages .....	3		49
	Other Action .....	13		Messages .....
6054-S	Final Passage as amended by House .....	39		48
	Messages .....	39		Other Action .....
	Other Action .....	39	6424	Final Passage as amended by House .....
6095-S	Final Passage as amended by House .....	22		27
	Messages .....	20		Messages .....
	Other Action .....	22		26
6126-S2	Final Passage as amended by House .....	41		Other Action .....
	Messages .....	39	6424	Final Passage as amended by House .....
	Other Action .....	41		27
6128	Final Passage as amended by House .....	24		Messages .....
	Messages .....	22		26
	Other Action .....	23		Other Action .....
6137-S	Final Passage as amended by House .....	18	6431-S	Final Passage as amended by House .....
	Messages .....	16		27
	Other Action .....	18		Messages .....
6145-S	Final Passage as amended by House .....	22		27
	Messages .....	22		Other Action .....
	Other Action .....	22	6436-S	Final Passage as amended by House .....
6163-S2	Final Passage as amended by House .....	53		28
	Messages .....	51		Messages .....
	Other Action .....	52		27
6199-S	Final Passage as amended by House .....	54		Other Action .....
	Messages .....	53	6479-S	Final Passage as amended by House .....
	Other Action .....	54		30
6208	Final Passage as amended by House .....	25		Messages .....
	Messages .....	24		28
				Other Action .....
				29
			6501	Final Passage as amended by House .....
				57
				Messages .....
				55
				Other Action .....
				56
			6517-S	Final Passage as amended by House .....
				30
				Messages .....
				30
				Other Action .....
				30
			6553	Final Passage as amended by House .....
				51
				Messages .....
				49
				Other Action .....
				50
			8702	Adopted.....
				2
				Introduced .....
				1
			8703	Adopted.....
				2
				Introduced .....
				2
			9329 Stephen L Warner	Confirmed .....
				3
			PRESIDENT OF THE SENATE (SENATOR SHELDON	
			PRESIDING)	
			Intro. Special Guest Miss Tri-Cities.....	2
			Intro. Special Guest, Daffodil Queen Marissa Modestowicz	2
			Intro. Special Guests, Daffodil Princesses .....	2

Intro. Special Guests, Members of the Navy Region  
 Northwest ..... 1  
 Intro. Special Guests, Rear Admiral Babette Bolivar and Rear  
 Admiral Michael Smith ..... 1

WASHINGTON STATE SENATE  
 Remarks by Queen Marissa Modestowicz ..... 2  
 Remarks by Rear Admiral Babette Bolivar..... 1