

**EIGHTY SEVENTH DAY**

**MORNING SESSION**

Senate Chamber, Olympia  
Wednesday, April 10, 2019

The Senate was called to order at 9:10 a.m. by the President Pro Tempore, Senator Keiser presiding. The Secretary called the roll and announced to the President Pro Tempore that all senators were present with the exception of Senators McCoy and Wilson, L.

The Sergeant at Arms Color Guard consisting of Pages Miss Jane Gorski and Miss Sarah Tibbits, presented the Colors. Page Miss Ende Duerr led the Senate in the Pledge of Allegiance.

The invocation was offered by Mr. Daljit Singh, Priest, Gurudwara Sri Guru Tegh Bahadur Sahib Ji, Kent. The prayer was translated by Mr. Amarjit Singh. Mr. Daljit Singh and Mr. Amarjit Singh were guests of Senator Das.

The President called upon the Secretary to read the journal of the preceding day.

**MOTIONS**

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

On motion of Senator Liias, the Senate advanced to the fourth order of business.

**MESSAGES FROM THE HOUSE**

April 9, 2019

MR. PRESIDENT:  
The Speaker has signed:

SENATE BILL NO. 5032,  
SENATE BILL NO. 5083,  
SENATE BILL NO. 5122,  
SUBSTITUTE SENATE BILL NO. 5333,  
SUBSTITUTE SENATE BILL NO. 5386,  
SENATE BILL NO. 5387,  
SENATE BILL NO. 5503,  
SENATE BILL NO. 5622,  
SENATE BILL NO. 5764,  
SUBSTITUTE SENATE BILL NO. 5889,

and the same are herewith transmitted.  
NONA SNELL, Deputy Chief Clerk

April 9, 2019

MR. PRESIDENT:  
The Speaker has signed:

HOUSE BILL NO. 1020,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1138,  
HOUSE BILL NO. 1431,  
HOUSE BILL NO. 1743,  
HOUSE BILL NO. 2038,

and the same are herewith transmitted.  
NONA SNELL, Deputy Chief Clerk

April 9, 2019

MR. PRESIDENT:  
The House has passed:

SENATE BILL NO. 5002,

SENATE BILL NO. 5177,  
SENATE BILL NO. 5207,  
SENATE BILL NO. 5230,  
SUBSTITUTE SENATE BILL NO. 5265,  
SUBSTITUTE SENATE BILL NO. 5355,  
SENATE BILL NO. 5398,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5480,  
SUBSTITUTE SENATE BILL NO. 5588,  
SUBSTITUTE SENATE BILL NO. 5710,  
SENATE BILL NO. 5895,

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

**MOTION**

On motion of Senator Liias, the Senate advanced to the fifth order of business.

**INTRODUCTION AND FIRST READING**

SB 6008 by Senator Lovelett

AN ACT Relating to private road maintenance agreements; adding a new chapter to Title 64 RCW; and providing an effective date.

Referred to Committee on Law & Justice.

SB 6009 by Senators Rolfes and Braun

AN ACT Relating to making expenditures from the budget stabilization account for declared catastrophic events; creating new sections; making appropriations; and declaring an emergency.

Referred to Committee on Ways & Means.

**MOTIONS**

On motion of Senator Liias, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

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

Senator Das moved adoption of the following resolution:

**SENATE RESOLUTION  
8639**

By Senators Das, Randall, Zeiger, Short, Billig, Hasegawa, Hobbs, Braun, Mullet, Nguyen, Dhingra, Pedersen, and Wilson, C.

WHEREAS, Sikhism is a religion founded in the Punjab region of South Asia over five centuries ago and introduced to the United States in the 19th century; and

WHEREAS, Sikhism is the fifth largest world religion with approximately twenty-five million adherents from diverse backgrounds throughout the world, including an estimated five hundred thousand adherents in the United States; and

WHEREAS, Sikhs in the United States pursue diverse professions and walks of life, making rich contributions to the economic vibrancy of the United States; and

WHEREAS, Washington prides itself on being a state where people of all faiths and cultures are welcomed and respected; and

WHEREAS, During the month of April, the Sikh community celebrates Vaisakhi, also known as Khalsa Day, which marks the beginning of the harvest season and the Sikh New Year; and

WHEREAS, Vaisakhi is one of the most religiously significant days in Sikh history, commemorating the creation of the Khalsa, a fellowship of devout Sikhs, by Guru Gobind Singh in 1699; and

WHEREAS, The local Sikh community will be celebrating Vaisakhi on May 4th, 2019, at the Kent ShoWare Center, showcasing Sikh heritage and culture;

NOW, THEREFORE, BE IT RESOLVED, That the Senate of the state of Washington wish our Sikh American community a very joyous Vaisakhi celebration.

Senators Das, Dhingra, Becker, Kuderer, Wilson, C., Nguyen and Saldaña spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8639.

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

#### INTRODUCTION OF SPECIAL GUESTS

The President Pro Tempore welcomed and introduced members of the Sikh community who were seated in the gallery: The Honorable Satwinder Kaur, City of Kent Councilmember; The Honorable Satpal Sidhu, Councilmember, Whatcom County Council; and representatives and members of Gurudwara Singh Sabha, Renton; Gurudwara Sacha Marg, Auburn; and Sikh SOCH, a Sikh non-profit serving King County.

#### MOTION

At 9:37 a.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President for the purpose of caucus.

Senator Becker announced a meeting of the Republican Caucus immediately upon going at ease.

Senator Hasegawa announced a meeting of the Democratic Caucus immediately upon going at ease.

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The Senate was called to order at 11:25 a.m. by President Pro Tempore Keiser.

#### MOTION

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

#### THIRD READING

#### CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Wellman moved that Lisa Chin, Senate gubernatorial Appointment No. 9044, be confirmed as a member of the Bellevue College Board of Trustees.

Senator Wellman spoke in favor of the motion.

#### APPOINTMENT OF LISA CHIN

The President Pro Tempore declared the question before the Senate to be the confirmation of Lisa Chin, Senate gubernatorial Appointment No. 9044, as a member of the Bellevue College Board of Trustees.

The Secretary called the roll on the confirmation of Lisa Chin, Senate gubernatorial Appointment No. 9044, as a member of the Bellevue College Board of Trustees and the appointment was confirmed by the following vote: Yeas, 45; Nays, 1; Absent, 3; Excused, 0.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Erickson, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Mullet, Nguyen, O'Ban, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Voting nay: Senator Padden

Absent: Senators McCoy, Sheldon and Wilson, L.

Lisa Chin, Senate gubernatorial Appointment No. 9044, having received the constitutional majority was declared confirmed as a member of the Bellevue College Board of Trustees.

#### MOTIONS

On motion of Senator Rivers, Senators Sheldon and Wilson, L. were excused.

On motion of Senator Wilson, C., Senator McCoy was excused.

#### MOTION

On motion of Senator Liias, the Senate reverted to the sixth order of business.

#### MOTION

On motion of Senator Liias, Rule 15 was suspended for the remainder of the day for the purpose of allowing continued floor action.

EDITOR'S NOTE: Senate Rule 15 establishes the floor schedule and calls for a lunch and dinner break of 90 minutes each per day during regular daily sessions.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1732, by House Committee on Public Safety (originally sponsored by Valdez, Entenman, Ramos, Wylie, Gregerson, Dolan, Frame, Jinkins, Ortiz-Self, Orwall, Peterson, Ryu, Stanford, Kilduff, Santos, Thai, Senn, Macri and Pollet)

Concerning identifying and responding to bias-based criminal offenses.

The measure was read the second time.

#### MOTION

Senator Salomon moved that the following committee striking

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amendment by the Committee on Law & Justice be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9A.36.078 and 1993 c 127 s 1 are each amended to read as follows:

The legislature finds that crimes and threats against persons because of their race, color, religion, ancestry, national origin, gender, sexual orientation, gender expression or identity, or mental, physical, or sensory (~~(handicap)~~) disabilities are serious and increasing. The legislature also finds that crimes and threats are often directed against interracial couples and their children or couples of mixed religions, colors, ancestries, or national origins because of bias and bigotry against the race, color, religion, ancestry, or national origin of one person in the couple or family. The legislature finds that the state interest in preventing crimes and threats motivated by bigotry and bias goes beyond the state interest in preventing other felonies or misdemeanors such as criminal trespass, malicious mischief, assault, or other crimes that are not motivated by hatred, bigotry, and bias, and that prosecution of those other crimes inadequately protects citizens from crimes and threats motivated by bigotry and bias. Therefore, the legislature finds that protection of those citizens from threats of harm due to bias and bigotry is a compelling state interest.

The legislature also finds that in many cases, certain discrete words or symbols are used to threaten the victims. Those discrete words or symbols have historically or traditionally been used to connote hatred or threats towards members of the class of which the victim or a member of the victim's family or household is a member. In particular, the legislature finds that cross burnings historically and traditionally have been used to threaten, terrorize, intimidate, and harass African Americans and their families. Cross burnings often preceded lynchings, murders, burning of homes, and other acts of terror. Further, Nazi swastikas historically and traditionally have been used to threaten, terrorize, intimidate, and harass Jewish people and their families. Swastikas symbolize the massive destruction of the Jewish population, commonly known as the holocaust. Therefore, the legislature finds that any person who burns or attempts to burn a cross or displays a swastika on the property of the victim or burns a cross or displays a swastika as part of a series of acts directed towards a particular person, the person's family or household members, or a particular group, knows or reasonably should know that the cross burning or swastika may create a reasonable fear of harm in the mind of the person, the person's family and household members, or the group.

The legislature also finds that attacks on religious places of worship and threatening defacement of religious texts have increased, as have assaults and attacks on those who visibly self-identify as members of a religious minority, such as by wearing religious head covering or other visible articles of faith. The legislature finds that any person who defaces religious real property with derogatory words, symbols, or items, who places a vandalized or defaced religious item or scripture on the property of a victim, or who attacks or attempts to remove the religious garb or faith-based attire of a victim, knows or reasonably should know that such actions create a reasonable fear of harm in the mind of the victim.

The legislature also finds that a hate crime committed against a victim because of the victim's gender may be identified in the same manner that a hate crime committed against a victim of another protected group is identified. Affirmative indications of hatred towards gender as a class is the predominant factor to consider. Other factors to consider include the perpetrator's use of language, slurs, or symbols expressing hatred towards the victim's

gender as a class; the severity of the attack including mutilation of the victim's sexual organs; a history of similar attacks against victims of the same gender by the perpetrator or a history of similar incidents in the same area; a lack of provocation; an absence of any other apparent motivation; and common sense.

The legislature recognizes that, since 2015, Washington state has experienced a sharp increase in malicious harassment offenses, and, in response, the legislature intends to rename the offense to its more commonly understood title of "hate crime offense" and create a multidisciplinary working group to establish recommendations for best practices for identifying and responding to hate crimes.

**Sec. 2.** RCW 9A.36.080 and 2010 c 119 s 1 are each amended to read as follows:

(1) A person is guilty of (~~(malicious harassment)~~) a hate crime offense if he or she maliciously and intentionally commits one of the following acts because of his or her perception of the victim's race, color, religion, ancestry, national origin, gender, sexual orientation, gender expression or identity, or mental, physical, or sensory (~~(handicap)~~) disability:

- (a) Causes physical injury to the victim or another person;
- (b) Causes physical damage to or destruction of the property of the victim or another person; or
- (c) Threatens a specific person or group of persons and places that person, or members of the specific group of persons, in reasonable fear of harm to person or property. The fear must be a fear that a reasonable person would have under all the circumstances. For purposes of this section, a "reasonable person" is a reasonable person who is a member of the victim's race, color, religion, ancestry, national origin, gender, or sexual orientation, or who has the same gender expression or identity, or the same mental, physical, or sensory (~~(handicap)~~) disability as the victim. Words alone do not constitute (~~(malicious harassment)~~) a hate crime offense unless the context or circumstances surrounding the words indicate the words are a threat. Threatening words do not constitute (~~(malicious harassment)~~) a hate crime offense if it is apparent to the victim that the person does not have the ability to carry out the threat.

(2) In any prosecution for (~~(malicious harassment)~~) a hate crime offense, unless evidence exists which explains to the trier of fact's satisfaction that the person did not intend to threaten the victim or victims, the trier of fact may infer that the person intended to threaten a specific victim or group of victims because of the person's perception of the victim's or victims' race, color, religion, ancestry, national origin, gender, sexual orientation, gender expression or identity, or mental, physical, or sensory (~~(handicap)~~) disability if the person commits one of the following acts:

- (a) Burns a cross on property of a victim who is or whom the actor perceives to be of African American heritage; (~~(☹)~~)
- (b) Defaces property of a victim who is or whom the actor perceives to be of Jewish heritage by defacing the property with a swastika;
- (c) Defaces religious real property with words, symbols, or items that are derogatory to persons of the faith associated with the property;
- (d) Places a vandalized or defaced religious item or scripture on the property of a victim who is or whom the actor perceives to be of the faith with which that item or scripture is associated;
- (e) Damages, destroys, or defaces religious garb or other faith-based attire belonging to the victim or attempts to or successfully removes religious garb or other faith-based attire from the victim's person without the victim's authorization; or
- (f) Places a noose on the property of a victim who is or whom the actor perceives to be of a racial or ethnic minority group.

This subsection only applies to the creation of a reasonable inference for evidentiary purposes. This subsection does not restrict the state's ability to prosecute a person under subsection (1) of this section when the facts of a particular case do not fall within (a) ~~((or (b)))~~ through (f) of this subsection.

(3) It is not a defense that the accused was mistaken that the victim was a member of a certain race, color, religion, ancestry, national origin, gender, or sexual orientation, had a particular gender expression or identity, or had a mental, physical, or sensory ~~((handicap))~~ disability.

(4) Evidence of expressions or associations of the accused may not be introduced as substantive evidence at trial unless the evidence specifically relates to the crime charged. Nothing in this chapter shall affect the rules of evidence governing impeachment of a witness.

(5) Every person who commits another crime during the commission of a crime under this section may be punished and prosecuted for the other crime separately.

(6) For the purposes of this section:

(a) "Gender expression or identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth.

(b) "Sexual orientation" ~~((has the same meaning as in RCW 49.60.040))~~ means heterosexuality, homosexuality, or bisexuality.

~~((b))~~ (c) "Threat" means to communicate, directly or indirectly, the intent to:

(i) Cause bodily injury immediately or in the future to the person threatened or to any other person; or

(ii) Cause physical damage immediately or in the future to the property of a person threatened or that of any other person.

(7) ~~((Malicious harassment))~~ Commission of a hate crime offense is a class C felony.

(8) The penalties provided in this section for ~~((malicious harassment))~~ hate crime offenses do not preclude the victims from seeking any other remedies otherwise available under law.

(9) Nothing in this section confers or expands any civil rights or protections to any group or class identified under this section, beyond those rights or protections that exist under the federal or state Constitution or the civil laws of the state of Washington.

**Sec. 3.** RCW 9A.36.083 and 1993 c 127 s 3 are each amended to read as follows:

In addition to the criminal penalty provided in RCW 9A.36.080 for committing a ~~((crime of malicious harassment))~~ hate crime offense, the victim may bring a civil cause of action for ~~((malicious harassment))~~ the hate crime offense against the ~~((harasser))~~ person who committed the offense. A person may be liable to the victim of ~~((malicious harassment))~~ the hate crime offense for actual damages, punitive damages of up to ~~((ten))~~ one hundred thousand dollars, and reasonable attorneys' fees and costs incurred in bringing the action.

**NEW SECTION. Sec. 4.** A new section is added to chapter 43.10 RCW to read as follows:

(1) The office of the attorney general must, by September 1, 2019, coordinate and convene a multidisciplinary hate crime advisory working group for the purpose of developing strategies toward raising awareness of and appropriate responses to hate crime offenses and hate incidents. The working group must undertake its work with a view towards restorative justice.

(2) The group's membership must include:

(a) Four legislators, one appointed by each of the two largest

caucuses of the senate and one appointed by each of the two largest caucuses of the house of representatives;

(b) Six members appointed by the governor from organizations representing groups protected under RCW 9A.36.080;

(c) One member appointed by the governor representing law enforcement;

(d) One member appointed by the governor representing prosecutors;

(e) One member appointed by the governor that is from a local organization with national expertise legislating against, tracking, and responding to hate crimes and hate incidents;

(f) One member appointed by the governor representing K-12 educators; and

(g) One member representing the attorney general's office.

(3) The work group must develop recommended best practices for:

(a) Preventing hate crimes and hate incidents, especially those occurring in public K-12 schools and in the workplace, through public awareness and antibias campaigns;

(b) Increasing identification and reporting of hate crimes and hate incidents, including recommendations for standardization of data collection and reporting;

(c) Strengthening law enforcement, prosecutorial, and public K-12 school responses to hate crime offenses and hate incidents through enhanced training and other measures; and

(d) Supporting victims of hate crime offenses and hate incidents, and in particular, ways of strengthening law enforcement, health care, and educational collaboration with, and victim connection to, community advocacy and support organizations.

(4) The working group is encouraged to solicit participation and feedback from nonmember groups and individuals with relevant experience, as needed.

(5) The working group must hold at least four meetings. By July 1, 2020, the office of the attorney general must report the working group's recommendations to the governor and the legislature, in compliance with RCW 43.01.036.

**Sec. 5.** RCW 2.56.030 and 2009 c 479 s 2 are each amended to read as follows:

The administrator for the courts shall, under the supervision and direction of the chief justice:

(1) Examine the administrative methods and systems employed in the offices of the judges, clerks, stenographers, and employees of the courts and make recommendations, through the chief justice, for the improvement of the same;

(2) Examine the state of the dockets of the courts and determine the need for assistance by any court;

(3) Make recommendations to the chief justice relating to the assignment of judges where courts are in need of assistance and carry out the direction of the chief justice as to the assignments of judges to counties and districts where the courts are in need of assistance;

(4) Collect and compile statistical and other data and make reports of the business transacted by the courts and transmit the same to the chief justice to the end that proper action may be taken in respect thereto;

(5) Prepare and submit budget estimates of state appropriations necessary for the maintenance and operation of the judicial system and make recommendations in respect thereto;

(6) Collect statistical and other data and make reports relating to the expenditure of public moneys, state and local, for the maintenance and operation of the judicial system and the offices connected therewith;

(7) Obtain reports from clerks of courts in accordance with law or rules adopted by the supreme court of this state on cases and

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other judicial business in which action has been delayed beyond periods of time specified by law or rules of court and make report thereof to supreme court of this state;

(8) Act as secretary of the judicial conference referred to in RCW 2.56.060;

(9) Submit annually, as of February 1st, to the chief justice, a report of the activities of the administrator's office for the preceding calendar year including activities related to courthouse security;

(10) Administer programs and standards for the training and education of judicial personnel;

(11) Examine the need for new superior court and district court judge positions under an objective workload analysis. The results of the objective workload analysis shall be reviewed by the board for judicial administration which shall make recommendations to the legislature. It is the intent of the legislature that an objective workload analysis become the basis for creating additional district and superior court positions, and recommendations should address that objective;

(12) Provide staff to the judicial retirement account plan under chapter 2.14 RCW;

(13) Attend to such other matters as may be assigned by the supreme court of this state;

(14) Within available funds, develop a curriculum for a general understanding of child development, placement, and treatment resources, as well as specific legal skills and knowledge of relevant statutes including chapters 13.32A, 13.34, and 13.40 RCW, cases, court rules, interviewing skills, and special needs of the abused or neglected child. This curriculum shall be completed and made available to all juvenile court judges, court personnel, and service providers and be updated yearly to reflect changes in statutes, court rules, or case law;

(15) Develop, in consultation with the entities set forth in RCW 2.56.150(3), a comprehensive statewide curriculum for persons who act as guardians ad litem under Title 13 or 26 RCW. The curriculum shall be made available July 1, 2008, and include specialty sections on child development, child sexual abuse, child physical abuse, child neglect, domestic violence, clinical and forensic investigative and interviewing techniques, family reconciliation and mediation services, and relevant statutory and legal requirements. The curriculum shall be made available to all superior court judges, court personnel, and all persons who act as guardians ad litem;

(16) Develop a curriculum for a general understanding of ~~((crimes of malicious harassment))~~ hate crime offenses, as well as specific legal skills and knowledge of RCW 9A.36.080, relevant cases, court rules, and the special needs of ~~((malicious harassment))~~ hate crime offense victims. This curriculum shall be made available to all superior court and court of appeals judges and to all justices of the supreme court;

(17) Develop, in consultation with the criminal justice training commission and the commissions established under chapters 43.113, 43.115, and 43.117 RCW, a curriculum for a general understanding of ethnic and cultural diversity and its implications for working with youth of color and their families. The curriculum shall be available to all superior court judges and court commissioners assigned to juvenile court, and other court personnel. Ethnic and cultural diversity training shall be provided annually so as to incorporate cultural sensitivity and awareness into the daily operation of juvenile courts statewide;

(18) Authorize the use of closed circuit television and other electronic equipment in judicial proceedings. The administrator shall promulgate necessary standards and procedures and shall provide technical assistance to courts as required;

(19) Develop a Washington family law handbook in

accordance with RCW 2.56.180;

(20) Administer state funds for improving the operation of the courts and provide support for court coordinating councils, under the direction of the board for judicial administration;

(21) Administer the family and juvenile court improvement grant program;

(22)(a) Administer and distribute amounts appropriated under RCW 43.08.250(2) for district court judges' and qualifying elected municipal court judges' salary contributions. The administrator for the courts shall develop a distribution formula for these amounts that does not differentiate between district and elected municipal court judges.

(b) A city qualifies for state contribution of elected municipal court judges' salaries under (a) of this subsection if:

(i) The judge is serving in an elected position;

(ii) The city has established by ordinance that a full-time judge is compensated at a rate equivalent to at least ninety-five percent, but not more than one hundred percent, of a district court judge salary or for a part-time judge on a pro rata basis the same equivalent; and

(iii) The city has certified to the office of the administrator for the courts that the conditions in (b)(i) and (ii) of this subsection have been met;

(23) Subject to the availability of funds specifically appropriated therefor, assist courts in the development and implementation of language assistance plans required under RCW 2.43.090.

**Sec. 6.** RCW 9.94A.030 and 2018 c 166 s 3 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed as part of a sentence under this chapter and served in the community subject to controls placed on the offender's movement and activities by the department.

(6) "Community protection zone" means the area within eight hundred eighty feet of the facilities and grounds of a public or private school.

(7) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(8) "Confinement" means total or partial confinement.

(9) "Conviction" means an adjudication of guilt pursuant to Title 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of

the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(11) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere, and any issued certificates of restoration of opportunity pursuant to RCW 9.97.020.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(12) "Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(13) "Criminal street gang associate or member" means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.

(14) "Criminal street gang-related offense" means any felony or misdemeanor offense, whether in this state or elsewhere, that is committed for the benefit of, at the direction of, or in association with any criminal street gang, or is committed with the intent to promote, further, or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons:

- (a) To gain admission, prestige, or promotion within the gang;
- (b) To increase or maintain the gang's size, membership, prestige, dominance, or control in any geographical area;
- (c) To exact revenge or retribution for the gang or any member of the gang;
- (d) To obstruct justice, or intimidate or eliminate any witness against the gang or any member of the gang;
- (e) To directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its reputation, influence, or membership; or
- (f) To provide the gang with any advantage in, or any control or dominance over any criminal market sector, including, but not limited to, manufacturing, delivering, or selling any controlled substance (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter 9.68 RCW).

(15) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the

support of the offender and any dependents.

(16) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

(17) "Department" means the department of corrections.

(18) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community custody, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(19) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(20) "Domestic violence" has the same meaning as defined in RCW 10.99.020 and 26.50.010.

(21) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

(22) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(23) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(24) "Electronic monitoring" means tracking the location of an individual, whether pretrial or posttrial, through the use of technology that is capable of determining or identifying the monitored individual's presence or absence at a particular location including, but not limited to:

(a) Radio frequency signaling technology, which detects if the monitored individual is or is not at an approved location and notifies the monitoring agency of the time that the monitored individual either leaves the approved location or tampers with or removes the monitoring device; or

(b) Active or passive global positioning system technology, which detects the location of the monitored individual and notifies the monitoring agency of the monitored individual's location.

(25) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the

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department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(26) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(27) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

(28) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

(29) "Home detention" is a subset of electronic monitoring and means a program of partial confinement available to offenders wherein the offender is confined in a private residence twenty-four hours a day, unless an absence from the residence is approved, authorized, or otherwise permitted in the order by the court or other supervising agency that ordered home detention, and the offender is subject to electronic monitoring.

(30) "Homelessness" or "homeless" means a condition where an individual lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence that is:

(a) A supervised, publicly or privately operated shelter designed to provide temporary living accommodations;

(b) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or

(c) A private residence where the individual stays as a transient invitee.

(31) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(32) "Minor child" means a biological or adopted child of the offender who is under age eighteen at the time of the offender's current offense.

(33) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(v)(i) A prior conviction for indecent liberties under RCW 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997;

(w) Any out-of-state conviction for a felony offense with a finding of sexual motivation if the minimum sentence imposed was ten years or more; provided that the out-of-state felony offense must be comparable to a felony offense under this title and Title 9A RCW and the out-of-state definition of sexual motivation must be comparable to the definition of sexual motivation contained in this section.

(34) "Nonviolent offense" means an offense which is not a violent offense.

(35) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. In addition, for the purpose of community custody requirements under this chapter, "offender" also means a misdemeanor or gross misdemeanor probationer ordered by a superior court to probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and supervised by the department pursuant to RCW 9.94A.501 and 9.94A.5011. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(36) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under

contract by the state or any other unit of government, or, if home detention, electronic monitoring, or work crew has been ordered by the court or home detention has been ordered by the department as part of the parenting program or the graduated reentry program, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, electronic monitoring, and a combination of work crew, electronic monitoring, and home detention.

(37) "Pattern of criminal street gang activity" means:

(a) The commission, attempt, conspiracy, or solicitation of, or any prior juvenile adjudication of or adult conviction of, two or more of the following criminal street gang-related offenses:

(i) Any "serious violent" felony offense as defined in this section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a Child 1 (RCW 9A.36.120);

(ii) Any "violent" offense as defined by this section, excluding Assault of a Child 2 (RCW 9A.36.130);

(iii) Deliver or Possession with Intent to Deliver a Controlled Substance (chapter 69.50 RCW);

(iv) Any violation of the firearms and dangerous weapon act (chapter 9.41 RCW);

(v) Theft of a Firearm (RCW 9A.56.300);

(vi) Possession of a Stolen Firearm (RCW 9A.56.310);

(vii) (~~Malicious Harassment~~) **Hate Crime** (RCW 9A.36.080);

(viii) Harassment where a subsequent violation or deadly threat is made (RCW 9A.46.020(2)(b));

(ix) Criminal Gang Intimidation (RCW 9A.46.120);

(x) Any felony conviction by a person eighteen years of age or older with a special finding of involving a juvenile in a felony offense under RCW 9.94A.833;

(xi) Residential Burglary (RCW 9A.52.025);

(xii) Burglary 2 (RCW 9A.52.030);

(xiii) Malicious Mischief 1 (RCW 9A.48.070);

(xiv) Malicious Mischief 2 (RCW 9A.48.080);

(xv) Theft of a Motor Vehicle (RCW 9A.56.065);

(xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

(xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);

(xviii) Taking a Motor Vehicle Without Permission 2 (RCW 9A.56.075);

(xix) Extortion 1 (RCW 9A.56.120);

(xx) Extortion 2 (RCW 9A.56.130);

(xxi) Intimidating a Witness (RCW 9A.72.110);

(xxii) Tampering with a Witness (RCW 9A.72.120);

(xxiii) Reckless Endangerment (RCW 9A.36.050);

(xxiv) Coercion (RCW 9A.36.070);

(xxv) Harassment (RCW 9A.46.020); or

(xxvi) Malicious Mischief 3 (RCW 9A.48.090);

(b) That at least one of the offenses listed in (a) of this subsection shall have occurred after July 1, 2008;

(c) That the most recent committed offense listed in (a) of this subsection occurred within three years of a prior offense listed in (a) of this subsection; and

(d) Of the offenses that were committed in (a) of this subsection, the offenses occurred on separate occasions or were committed by two or more persons.

(38) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions,

at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (38)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

(39) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority; or (iv) a teacher, counselor, volunteer, or other person in authority providing home-based instruction and the victim was a student receiving home-based instruction while under his or her authority or supervision. For purposes of this subsection: (A) "Home-based instruction" has the same meaning as defined in RCW 28A.225.010; and (B) "teacher, counselor, volunteer, or other person in authority" does not include the parent or legal guardian of the victim.

(40) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

(41) "Public school" has the same meaning as in RCW 28A.150.010.

(42) "Repetitive domestic violence offense" means any:

(a)(i) Domestic violence assault that is not a felony offense under RCW 9A.36.041;

(ii) Domestic violence violation of a no-contact order under chapter 10.99 RCW that is not a felony offense;

(iii) Domestic violence violation of a protection order under chapter 26.09, 26.10, 26.26, or 26.50 RCW that is not a felony offense;

(iv) Domestic violence harassment offense under RCW 9A.46.020 that is not a felony offense; or

(v) Domestic violence stalking offense under RCW 9A.46.110



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that is not a felony offense; or

(b) Any federal, out-of-state, tribal court, military, county, or municipal conviction for an offense that under the laws of this state would be classified as a repetitive domestic violence offense under (a) of this subsection.

(43) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

(44) "Risk assessment" means the application of the risk instrument recommended to the department by the Washington state institute for public policy as having the highest degree of predictive accuracy for assessing an offender's risk of reoffense.

(45) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(46) "Serious violent offense" is a subcategory of violent offense and means:

- (a)(i) Murder in the first degree;
- (ii) Homicide by abuse;
- (iii) Murder in the second degree;
- (iv) Manslaughter in the first degree;
- (v) Assault in the first degree;
- (vi) Kidnapping in the first degree;
- (vii) Rape in the first degree;
- (viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(47) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.132;

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080;

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes; or

(v) A felony violation of RCW 9A.44.132(1) (failure to register as a sex offender) if the person has been convicted of violating RCW 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130 prior to June 10, 2010, on at least one prior occasion;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(48) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(49) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(50) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as

punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

(51) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

(52) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(53) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(54) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(55) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(56) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

(57) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(58) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

**Sec. 7.** RCW 9.94A.515 and 2018 c 236 s 721 and 2018 c 7 s

7 are each reenacted and amended to read as follows:

TABLE 2

## CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

- XVI Aggravated Murder 1 (RCW 10.95.020)
- XV Homicide by abuse (RCW 9A.32.055)  
Malicious explosion 1 (RCW 70.74.280(1))  
Murder 1 (RCW 9A.32.030)
- XIV Murder 2 (RCW 9A.32.050)  
Trafficking 1 (RCW 9A.40.100(1))
- XIII Malicious explosion 2 (RCW 70.74.280(2))  
Malicious placement of an explosive 1 (RCW 70.74.270(1))
- XII Assault 1 (RCW 9A.36.011)  
Assault of a Child 1 (RCW 9A.36.120)  
Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))  
Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101)  
Rape 1 (RCW 9A.44.040)  
Rape of a Child 1 (RCW 9A.44.073)  
Trafficking 2 (RCW 9A.40.100(3))
- XI Manslaughter 1 (RCW 9A.32.060)  
Rape 2 (RCW 9A.44.050)  
Rape of a Child 2 (RCW 9A.44.076)  
Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)  
Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- X Child Molestation 1 (RCW 9A.44.083)  
Criminal Mistreatment 1 (RCW 9A.42.020)  
Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))  
Kidnapping 1 (RCW 9A.40.020)  
Leading Organized Crime (RCW 9A.82.060(1)(a))  
Malicious explosion 3 (RCW 70.74.280(3))  
Sexually Violent Predator Escape (RCW 9A.76.115)
- IX Abandonment of Dependent Person 1 (RCW 9A.42.060)  
Assault of a Child 2 (RCW 9A.36.130)  
Explosive devices prohibited (RCW 70.74.180)  
Hit and Run—Death (RCW 46.52.020(4)(a))  
Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)  
Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))  
Malicious placement of an explosive 2 (RCW 70.74.270(2))  
Robbery 1 (RCW 9A.56.200)  
Sexual Exploitation (RCW 9.68A.040)
- VIII Arson 1 (RCW 9A.48.020)  
Commercial Sexual Abuse of a Minor (RCW

TABLE 2

## CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

- 9.68A.100)  
Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)  
Manslaughter 2 (RCW 9A.32.070)  
Promoting Prostitution 1 (RCW 9A.88.070)  
Theft of Ammonia (RCW 69.55.010)
- VII Air bag diagnostic systems (causing bodily injury or death) (RCW 46.37.660(2)(b))  
Air bag replacement requirements (causing bodily injury or death) (RCW 46.37.660(1)(b))  
Burglary 1 (RCW 9A.52.020)  
Child Molestation 2 (RCW 9A.44.086)  
Civil Disorder Training (RCW 9A.48.120)  
Dealing in depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.050(1))  
Drive-by Shooting (RCW 9A.36.045)  
Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)  
Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))  
Introducing Contraband 1 (RCW 9A.76.140)  
Malicious placement of an explosive 3 (RCW 70.74.270(3))  
Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (causing bodily injury or death) (RCW 46.37.650(1)(b))  
Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)  
Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(b))  
Sending, bringing into state depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.060(1))  
Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))  
Use of a Machine Gun or Bump-fire Stock in Commission of a Felony (RCW 9.41.225)  
Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))  
Bribery (RCW 9A.68.010)  
Incest 1 (RCW 9A.64.020(1))  
Intimidating a Judge (RCW 9A.72.160)  
Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)  
Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))  
Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070(1))  
Rape of a Child 3 (RCW 9A.44.079)

TABLE 2

## CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

	Theft of a Firearm (RCW 9A.56.300)
	Theft from a Vulnerable Adult 1 (RCW 9A.56.400(1))
	Unlawful Storage of Ammonia (RCW 69.55.020)
V	Abandonment of Dependent Person 2 (RCW 9A.42.070)
	Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
	Air bag diagnostic systems (RCW 46.37.660(2)(c))
	Air bag replacement requirements (RCW 46.37.660(1)(c))
	Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
	Child Molestation 3 (RCW 9A.44.089)
	Criminal Mistreatment 2 (RCW 9A.42.030)
	Custodial Sexual Misconduct 1 (RCW 9A.44.160)
	Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.050(2))
	Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, <del>((26.26.138))</del> <u>26.26B.050</u> , 26.50.110, 26.52.070, or 74.34.145)
	Extortion 1 (RCW 9A.56.120)
	Extortionate Extension of Credit (RCW 9A.82.020)
	Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
	Incest 2 (RCW 9A.64.020(2))
	Kidnapping 2 (RCW 9A.40.030)
	Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (RCW 46.37.650(1)(c))
	Perjury 1 (RCW 9A.72.020)
	Persistent prison misbehavior (RCW 9.94.070)
	Possession of a Stolen Firearm (RCW 9A.56.310)
	Rape 3 (RCW 9A.44.060)
	Rendering Criminal Assistance 1 (RCW 9A.76.070)
	Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(c))
	Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.060(2))
	Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
	Sexually Violating Human Remains (RCW 9A.44.105)
	Stalking (RCW 9A.46.110)
	Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)
IV	Arson 2 (RCW 9A.48.030)
	Assault 2 (RCW 9A.36.021)
	Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))

TABLE 2

## CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

	Assault 4 (third domestic violence offense) (RCW 9A.36.041(3))
	Assault by Watercraft (RCW 79A.60.060)
	Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
	Cheating 1 (RCW 9.46.1961)
	Commercial Bribery (RCW 9A.68.060)
	Counterfeiting (RCW 9.16.035(4))
	Driving While Under the Influence (RCW 46.61.502(6))
	Endangerment with a Controlled Substance (RCW 9A.42.100)
	Escape 1 (RCW 9A.76.110)
	<u>Hate Crime (RCW 9A.36.080)</u>
	Hit and Run—Injury (RCW 46.52.020(4)(b))
	Hit and Run with Vessel—Injury Accident (RCW 79A.60.200(3))
	Identity Theft 1 (RCW 9.35.020(2))
	Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)
	Influencing Outcome of Sporting Event (RCW 9A.82.070)
	<del>((Malicious Harassment (RCW 9A.36.080)))</del>
	Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6))
	Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.070(2))
	Residential Burglary (RCW 9A.52.025)
	Robbery 2 (RCW 9A.56.210)
	Theft of Livestock 1 (RCW 9A.56.080)
	Threats to Bomb (RCW 9.61.160)
	Trafficking in Stolen Property 1 (RCW 9A.82.050)
	Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))
	Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))
	Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))
	Unlawful transaction of insurance business (RCW 48.15.023(3))
	Unlicensed practice as an insurance professional (RCW 48.17.063(2))
	Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
	Vehicle Prowling 2 (third or subsequent offense) (RCW 9A.52.100(3))
	Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)

TABLE 2

## CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

	Viewing of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.075(1))
	Willful Failure to Return from Furlough (RCW 72.66.060)
III	Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3))
	Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))
	Assault of a Child 3 (RCW 9A.36.140)
	Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))
	Burglary 2 (RCW 9A.52.030)
	Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
	Criminal Gang Intimidation (RCW 9A.46.120)
	Custodial Assault (RCW 9A.36.100)
	Cyberstalking (subsequent conviction or threat of death) (RCW 9.61.260(3))
	Escape 2 (RCW 9A.76.120)
	Extortion 2 (RCW 9A.56.130)
	Harassment (RCW 9A.46.020)
	Intimidating a Public Servant (RCW 9A.76.180)
	Introducing Contraband 2 (RCW 9A.76.150)
	Malicious Injury to Railroad Property (RCW 81.60.070)
	Mortgage Fraud (RCW 19.144.080)
	Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)
	Organized Retail Theft 1 (RCW 9A.56.350(2))
	Perjury 2 (RCW 9A.72.030)
	Possession of Incendiary Device (RCW 9.40.120)
	Possession of Machine Gun, Bump-fire Stock, or Short-Barreled Shotgun or Rifle (RCW 9.41.190)
	Promoting Prostitution 2 (RCW 9A.88.080)
	Retail Theft with Special Circumstances 1 (RCW 9A.56.360(2))
	Securities Act violation (RCW 21.20.400)
	Tampering with a Witness (RCW 9A.72.120)
	Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))
	Theft of Livestock 2 (RCW 9A.56.083)
	Theft with the Intent to Resell 1 (RCW 9A.56.340(2))
	Trafficking in Stolen Property 2 (RCW 9A.82.055)
	Unlawful Hunting of Big Game 1 (RCW 77.15.410(3)(b))
	Unlawful Imprisonment (RCW 9A.40.040)
	Unlawful Misbranding of ( <del>Food</del> ) Fish or Shellfish 1 (RCW 77.140.060(3))

TABLE 2

## CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

	Unlawful possession of firearm in the second degree (RCW 9.41.040(2))
	Unlawful Taking of Endangered Fish or Wildlife 1 (RCW 77.15.120(3)(b))
	Unlawful Trafficking in Fish, Shellfish, or Wildlife 1 (RCW 77.15.260(3)(b))
	Unlawful Use of a Nondesignated Vessel (RCW 77.15.530(4))
	Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
	Willful Failure to Return from Work Release (RCW 72.65.070)
II	Commercial Fishing Without a License 1 (RCW 77.15.500(3)(b))
	Computer Trespass 1 (RCW 9A.90.040)
	Counterfeiting (RCW 9.16.035(3))
	Electronic Data Service Interference (RCW 9A.90.060)
	Electronic Data Tampering 1 (RCW 9A.90.080)
	Electronic Data Theft (RCW 9A.90.100)
	Engaging in Fish Dealing Activity Unlicensed 1 (RCW 77.15.620(3))
	Escape from Community Custody (RCW 72.09.310)
	Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.130 prior to June 10, 2010, and RCW 9A.44.132)
	Health Care False Claims (RCW 48.80.030)
	Identity Theft 2 (RCW 9.35.020(3))
	Improperly Obtaining Financial Information (RCW 9.35.010)
	Malicious Mischief 1 (RCW 9A.48.070)
	Organized Retail Theft 2 (RCW 9A.56.350(3))
	Possession of Stolen Property 1 (RCW 9A.56.150)
	Possession of a Stolen Vehicle (RCW 9A.56.068)
	Retail Theft with Special Circumstances 2 (RCW 9A.56.360(3))
	Scrap Processing, Recycling, or Supplying Without a License (second or subsequent offense) (RCW 19.290.100)
	Theft 1 (RCW 9A.56.030)
	Theft of a Motor Vehicle (RCW 9A.56.065)
	Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at five thousand dollars or more) (RCW 9A.56.096(5)(a))
	Theft with the Intent to Resell 2 (RCW 9A.56.340(3))
	Trafficking in Insurance Claims (RCW 48.30A.015)
	Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))
	Unlawful Participation of Non-Indians in Indian Fishery (RCW 77.15.570(2))
	Unlawful Practice of Law (RCW 2.48.180)

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

- Unlawful Purchase or Use of a License (RCW 77.15.650(3)(b))
- Unlawful Trafficking in Fish, Shellfish, or Wildlife 2 (RCW 77.15.260(3)(a))
- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- Voyeurism 1 (RCW 9A.44.115)
- I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- False Verification for Welfare (RCW 74.08.055)
- Forgery (RCW 9A.60.020)
- Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)
- Malicious Mischief 2 (RCW 9A.48.080)
- Mineral Trespass (RCW 78.44.330)
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Reckless Burning 1 (RCW 9A.48.040)
- Spotlighting Big Game 1 (RCW 77.15.450(3)(b))
- Suspension of Department Privileges 1 (RCW 77.15.670(3)(b))
- Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)
- Theft 2 (RCW 9A.56.040)
- Theft from a Vulnerable Adult 2 (RCW 9A.56.400(2))
- Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at seven hundred fifty dollars or more but less than five thousand dollars) (RCW 9A.56.096(5)(b))
- Transaction of insurance business beyond the scope of licensure (RCW 48.17.063)
- Unlawful Fish and Shellfish Catch Accounting (RCW 77.15.630(3)(b))
- Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
- Unlawful Possession of Fictitious Identification (RCW 9A.56.320)
- Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)
- Unlawful Possession of Payment Instruments (RCW 9A.56.320)
- Unlawful Possession of a Personal Identification Device (RCW 9A.56.320)
- Unlawful Production of Payment Instruments (RCW 9A.56.320)
- Unlawful Releasing, Planting, Possessing, or Placing Deleterious Exotic Wildlife (RCW 77.15.250(2)(b))
- Unlawful Trafficking in Food Stamps (RCW 9.91.142)
- Unlawful Use of Food Stamps (RCW 9.91.144)
- Unlawful Use of Net to Take Fish 1 (RCW 77.15.580(3)(b))
- Unlawful Use of Prohibited Aquatic Animal Species

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

- (RCW 77.15.253(3))
- Vehicle Prowl 1 (RCW 9A.52.095)
- Violating Commercial Fishing Area or Time 1 (RCW 77.15.550(3)(b))
- Sec. 8.** RCW 9A.46.060 and 2006 c 138 s 21 are each amended to read as follows:  
As used in this chapter, "harassment" may include but is not limited to any of the following crimes:  
(1) Harassment (RCW 9A.46.020);  
(2) (~~Malicious harassment~~) **Hate crime** (RCW 9A.36.080);  
(3) Telephone harassment (RCW 9.61.230);  
(4) Assault in the first degree (RCW 9A.36.011);  
(5) Assault of a child in the first degree (RCW 9A.36.120);  
(6) Assault in the second degree (RCW 9A.36.021);  
(7) Assault of a child in the second degree (RCW 9A.36.130);  
(8) Assault in the fourth degree (RCW 9A.36.041);  
(9) Reckless endangerment (RCW 9A.36.050);  
(10) Extortion in the first degree (RCW 9A.56.120);  
(11) Extortion in the second degree (RCW 9A.56.130);  
(12) Coercion (RCW 9A.36.070);  
(13) Burglary in the first degree (RCW 9A.52.020);  
(14) Burglary in the second degree (RCW 9A.52.030);  
(15) Criminal trespass in the first degree (RCW 9A.52.070);  
(16) Criminal trespass in the second degree (RCW 9A.52.080);  
(17) Malicious mischief in the first degree (RCW 9A.48.070);  
(18) Malicious mischief in the second degree (RCW 9A.48.080);  
(19) Malicious mischief in the third degree (RCW 9A.48.090);  
(20) Kidnapping in the first degree (RCW 9A.40.020);  
(21) Kidnapping in the second degree (RCW 9A.40.030);  
(22) Unlawful imprisonment (RCW 9A.40.040);  
(23) Rape in the first degree (RCW 9A.44.040);  
(24) Rape in the second degree (RCW 9A.44.050);  
(25) Rape in the third degree (RCW 9A.44.060);  
(26) Indecent liberties (RCW 9A.44.100);  
(27) Rape of a child in the first degree (RCW 9A.44.073);  
(28) Rape of a child in the second degree (RCW 9A.44.076);  
(29) Rape of a child in the third degree (RCW 9A.44.079);  
(30) Child molestation in the first degree (RCW 9A.44.083);  
(31) Child molestation in the second degree (RCW 9A.44.086);  
(32) Child molestation in the third degree (RCW 9A.44.089);  
(33) Stalking (RCW 9A.46.110);  
(34) Cyberstalking (RCW 9.61.260);  
(35) Residential burglary (RCW 9A.52.025);  
(36) Violation of a temporary, permanent, or final protective order issued pursuant to chapter 7.90, 9A.46, 10.14, 10.99, 26.09, or 26.50 RCW;  
(37) Unlawful discharge of a laser in the first degree (RCW 9A.49.020); and  
(38) Unlawful discharge of a laser in the second degree (RCW 9A.49.030).
- Sec. 9.** RCW 36.28A.030 and 1993 c 127 s 4 are each amended to read as follows:  
(1) The Washington association of sheriffs and police chiefs shall establish and maintain a central repository for the collection and classification of information regarding violations of RCW 9A.36.080. Upon establishing such a repository, the association shall develop a procedure to monitor, record, and classify information relating to violations of RCW 9A.36.080 and any other crimes of bigotry or bias apparently directed against other

persons because the people committing the crimes perceived that their victims were of a particular race, color, religion, ancestry, national origin, gender, sexual orientation, had a particular gender expression or identity, or had a mental, physical, or sensory (~~handicap~~) disability.

(2) All local law enforcement agencies shall report monthly to the association concerning all violations of RCW 9A.36.080 and any other crimes of bigotry or bias in such form and in such manner as prescribed by rules adopted by the association. Agency participation in the association's reporting programs, with regard to the specific data requirements associated with violations of RCW 9A.36.080 and any other crimes of bigotry or bias, shall be deemed to meet agency reporting requirements. The association must summarize the information received and file an annual report with the governor and the senate law and justice committee and the house of representatives judiciary committee.

(3) The association shall disseminate the information according to the provisions of chapters 10.97 and 10.98 RCW, and all other confidentiality requirements imposed by federal or Washington law.

**Sec. 10.** RCW 43.43.830 and 2017 c 272 s 5 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.43.830 through 43.43.845.

(1) "Agency" means any person, firm, partnership, association, corporation, or facility which receives, provides services to, houses or otherwise cares for vulnerable adults, juveniles, or children, or which provides child day care, early learning, or early childhood education services.

(2) "Applicant" means:

(a) Any prospective employee who will or may have unsupervised access to children under sixteen years of age or developmentally disabled persons or vulnerable adults during the course of his or her employment or involvement with the business or organization;

(b) Any prospective volunteer who will have regularly scheduled unsupervised access to children under sixteen years of age, developmentally disabled persons, or vulnerable adults during the course of his or her employment or involvement with the business or organization under circumstances where such access will or may involve groups of (i) five or fewer children under twelve years of age, (ii) three or fewer children between twelve and sixteen years of age, (iii) developmentally disabled persons, or (iv) vulnerable adults;

(c) Any prospective adoptive parent, as defined in RCW 26.33.020; or

(d) Any prospective custodian in a nonparental custody proceeding under chapter 26.10 RCW.

(3) "Business or organization" means a person, business, or organization licensed in this state, any agency of the state, or other governmental entity, that educates, trains, treats, supervises, houses, or provides recreation to developmentally disabled persons, vulnerable adults, or children under sixteen years of age, or that provides child day care, early learning, or early learning childhood education services, including but not limited to public housing authorities, school districts, and educational service districts.

(4) "Civil adjudication proceeding" is a judicial or administrative adjudicative proceeding that results in a finding of, or upholds an agency finding of, domestic violence, abuse, sexual abuse, neglect, abandonment, violation of a professional licensing standard regarding a child or vulnerable adult, or exploitation or financial exploitation of a child or vulnerable adult under any provision of law, including but not limited to chapter 13.34, 26.44, or 74.34 RCW, or rules adopted under chapters 18.51 and

74.42 RCW. "Civil adjudication proceeding" also includes judicial or administrative findings that become final due to the failure of the alleged perpetrator to timely exercise a legal right to administratively challenge such findings.

(5) "Client" or "resident" means a child, person with developmental disabilities, or vulnerable adult applying for housing assistance from a business or organization.

(6) "Conviction record" means "conviction record" information as defined in RCW 10.97.030 and 10.97.050 relating to a crime committed by either an adult or a juvenile. It does not include a conviction for an offense that has been the subject of an expungement, pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, or a conviction that has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. It does include convictions for offenses for which the defendant received a deferred or suspended sentence, unless the record has been expunged according to law.

(7) "Crime against children or other persons" means a conviction of any of the following offenses: Aggravated murder; first or second degree murder; first or second degree kidnapping; first, second, or third degree assault; fourth degree assault (if a violation of RCW 9A.36.041(3)); first, second, or third degree assault of a child; first, second, or third degree rape; first, second, or third degree rape of a child; first or second degree robbery; first degree arson; first degree burglary; first or second degree manslaughter; first or second degree extortion; indecent liberties; incest; vehicular homicide; first degree promoting prostitution; communication with a minor; unlawful imprisonment; simple assault; sexual exploitation of minors; first or second degree criminal mistreatment; endangerment with a controlled substance; child abuse or neglect as defined in RCW 26.44.020; first or second degree custodial interference; first or second degree custodial sexual misconduct; (~~malicious harassment~~) hate crime; first, second, or third degree child molestation; first or second degree sexual misconduct with a minor; commercial sexual abuse of a minor; child abandonment; promoting pornography; selling or distributing erotic material to a minor; custodial assault; violation of child abuse restraining order; child buying or selling; prostitution; felony indecent exposure; criminal abandonment; or any of these crimes as they may be renamed in the future.

(8) "Crimes relating to drugs" means a conviction of a crime to manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance.

(9) "Crimes relating to financial exploitation" means a conviction for first, second, or third degree extortion; first, second, or third degree theft; first or second degree robbery; forgery; or any of these crimes as they may be renamed in the future.

(10) "Financial exploitation" means "financial exploitation" as defined in RCW 74.34.020.

(11) "Health care facility" means a nursing home licensed under chapter 18.51 RCW, (~~(a-1a))~~ an assisted living facility licensed under chapter 18.20 RCW, or an adult family home licensed under chapter 70.128 RCW.

(12) "Peer counselor" means a nonprofessional person who has equal standing with another person, providing advice on a topic about which the nonprofessional person is more experienced or knowledgeable, and who is a counselor for a peer counseling program that contracts with or is otherwise approved by the department, another state or local agency, or the court.

(13) "Unsupervised" means not in the presence of:

(a) Another employee or volunteer from the same business or organization as the applicant; or

(b) Any relative or guardian of any of the children or

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developmentally disabled persons or vulnerable adults to which the applicant has access during the course of his or her employment or involvement with the business or organization.

With regard to peer counselors, "unsupervised" does not include incidental contact with children under age sixteen at the location at which the peer counseling is taking place. "Incidental contact" means minor or casual contact with a child in an area accessible to and within visual or auditory range of others. It could include passing a child while walking down a hallway but would not include being alone with a child for any period of time in a closed room or office.

(14) "Vulnerable adult" means "vulnerable adult" as defined in chapter 74.34 RCW, except that for the purposes of requesting and receiving background checks pursuant to RCW 43.43.832, it shall also include adults of any age who lack the functional, mental, or physical ability to care for themselves.

**Sec. 11.** RCW 48.18.553 and 2003 c 117 s 1 are each amended to read as follows:

(1) For the purposes of this section:

(a) "Insured" means a current policyholder or a person or entity that is covered under the insurance policy.

(b) (~~("Malicious harassment")~~) "Hate crime offense" has the same meaning as RCW 9A.36.080. Under this section, the perpetrator does not have to be identified for (~~(an act of malicious harassment)~~) a hate crime offense to have occurred.

(c) "Underwriting action" means an insurer:

- (i) Cancels or refuses to renew an insurance policy; or
- (ii) Changes the terms or benefits in an insurance policy.

(2) This section applies to property insurance policies if the insured is:

- (a) An individual;
- (b) A religious organization;
- (c) An educational organization; or
- (d) Any other nonprofit organization that is organized and operated for religious, charitable, or educational purposes.

(3) An insurer may not take an underwriting action on a policy described in subsection (2) of this section because an insured has made one or more insurance claims for any loss that occurred during the preceding sixty months that is the result of (~~(malicious harassment)~~) a hate crime offense. An insurer may take an underwriting action due to other factors that are not prohibited by this subsection.

(4) If an insured sustains a loss that is the result of (~~(malicious harassment)~~) a hate crime offense, the insured must file a report with the police or other law enforcement authority within thirty days of discovery of the incident, and a law enforcement authority must determine that a crime has occurred. The report must contain sufficient information to provide an insurer with reasonable notice that the loss was the result of (~~(malicious harassment)~~) a hate crime offense. The insured has a duty to cooperate with any law enforcement official or insurer investigation. (~~(For incidents of malicious harassment occurring prior to July 27, 2003, the insured must file the report within six months of the discovery of the incident.)~~)

(5) Annually, each insurer must report underwriting actions to the commissioner if the insurer has taken an underwriting action against any insured who has filed a claim during the preceding sixty months that was the result of (~~(malicious harassment)~~) a hate crime offense. The report must include the policy number, name of the insured, location of the property, and the reason for the underwriting action."

On page 1, line 2 of the title, after "offenses;" strike the remainder of the title and insert "amending RCW 9A.36.078, 9A.36.080, 9A.36.083, 2.56.030, 9.94A.030, 9A.46.060, 36.28A.030, 43.43.830, and 48.18.553; reenacting and amending

RCW 9.94A.515; and adding a new section to chapter 43.10 RCW."

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Law & Justice to Engrossed Substitute House Bill No.1732.

The motion by Senator Salomon carried and the committee striking amendment was adopted by voice vote.

MOTION

On motion of Senator Salomon, the rules were suspended, Engrossed Substitute House Bill No. 1732 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Salomon, Lias, Das, Randall and Short spoke in favor of passage of the bill.

Senator Walsh spoke on passage of the bill.

Senator Padden spoke against passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1732 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1732 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 35; Nays, 11; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Billig, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hawkins, Hobbs, Hunt, Keiser, King, Kuderer, Lias, Lovelett, Mullet, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Schoesler, Short, Takko, Van De Wege, Walsh, Wellman, Wilson, C. and Zeiger

Voting nay: Senators Bailey, Braun, Ericksen, Fortunato, Holy, Honeyford, O'Ban, Padden, Rivers, Wagoner and Warnick

Excused: Senators McCoy, Sheldon and Wilson, L.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1732, as amended by the Senate, 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.

SECOND READING

HOUSE BILL NO. 1647, by Representatives Chapman, Boehnke, Barkis, Ortiz-Self, Shewmake and Goodman

Concerning mandatory rest periods for pilots.

The measure was read the second time.

MOTION

On motion of Senator Hobbs, the rules were suspended, House Bill No. 1647 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hobbs, King and Lovelett spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 1647.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1647 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Excused: Senators McCoy, Sheldon and Wilson, L.

HOUSE BILL NO. 1647, 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.

## INTRODUCTION OF SPECIAL GUESTS

The President Pro Tempore welcomed and introduced Miss Natalie Cleveland, daughter of Senator Cleveland, who was accompanied by Mr. Brandon Pust, and were seated in the gallery.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1485, by House Committee on State Government & Tribal Relations (originally sponsored by Lekanoff, Pettigrew, Shewmake, Gregerson, Entenman, Pellicciotti, Doglio, Appleton, Frame, Ormsby, Hudgins, Jinkins and Leavitt)

Concerning the appointment of religious coordinators.

The measure was read the second time.

## MOTION

On motion of Senator Hunt, the rules were suspended, Substitute House Bill No. 1485 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hunt and Zeiger spoke in favor of passage of the bill. Senator Padden spoke on passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 1485.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1485 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 12; Absent, 0; Excused, 3.

Voting yea: Senators Billig, Braun, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hawkins, Hobbs, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Mullet, Nguyen, O'Ban, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Walsh, Wellman, Wilson, C. and Zeiger

Voting nay: Senators Bailey, Becker, Brown, Ericksen, Fortunato, Holy, Honeyford, Padden, Schoesler, Short, Wagoner and Warnick

Excused: Senators McCoy, Sheldon and Wilson, L.

SUBSTITUTE HOUSE BILL NO. 1485, 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 12:16 p.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

## AFTERNOON SESSION

The Senate was called to order at 1:24 p.m. by President Pro Tempore Keiser.

## MOTION

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

## MESSAGE FROM THE HOUSE

April 9, 2019

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2015, and the same is herewith transmitted.

NONA SNELL, Deputy Chief Clerk

## MOTION

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

## THIRD READING

## CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Brown moved that Bill Gordon, Senate Gubernatorial Appointment No. 9045, be confirmed as a member of the Columbia Basin College Board of Trustees.

Senator Brown spoke in favor of the motion.

## APPOINTMENT OF BILL GORDON

The President Pro Tempore declared the question before the Senate to be the confirmation of Bill Gordon, Senate Gubernatorial Appointment No. 9045, as a member of the Columbia Basin College Board of Trustees.

The Secretary called the roll on the confirmation of Bill Gordon, Senate Gubernatorial Appointment No. 9045, as a member of the Columbia Basin College Board of Trustees and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Excused: Senators McCoy, Sheldon and Wilson, L.

Bill Gordon, Senate Gubernatorial Appointment No. 9045,



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having received the constitutional majority was declared confirmed as a member of the Columbia Basin College Board of Trustees.

#### MOTION

On motion of Senator Liias, the Senate reverted to the sixth order of business.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1532, by House Committee on Public Safety (originally sponsored by Mosbrucker, Pettigrew, Dye, Goodman, Griffey, Walsh, Eslick, Corry, Graham, Kraft, Appleton, Senn, Shea, Stanford, Valdez, Kloba, Leavitt and Macri)

Concerning traumatic brain injuries in domestic violence cases.

The measure was read the second time.

#### MOTION

On motion of Senator Padden, the rules were suspended, Substitute House Bill No. 1532 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Padden and Pedersen spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 1532.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1532 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Excused: Senators McCoy, Sheldon and Wilson, L.

SUBSTITUTE HOUSE BILL NO. 1532, 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.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1428, by House Committee on Environment & Energy (originally sponsored by Shewmake, Tarleton, Lekanoff and Fitzgibbon)

Concerning the disclosure of attributes of electricity products.

The measure was read the second time.

#### MOTION

Senator Carlyle moved that the following committee striking

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amendment by the Committee on Environment, Energy & Technology be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** 2000 c 213 s 1 (uncodified) is amended to read as follows:

(1) Consumer disclosure ensures that retail electric consumers purchasing electric energy receive basic information about the characteristics associated with their electric product in a form that facilitates consumer understanding of retail electric energy service and the development of new products responsive to consumer preferences.

(2) The legislature finds and declares that there is a need for reliable, accurate, and timely information regarding fuel source(s) that is consistently collected, for all electricity products offered for retail sale in Washington.

(3) The desirability and feasibility of such disclosure has been clearly established in nutrition labeling, uniform food pricing, truth-in-lending, and other consumer information programs.

(4) The legislature intends to establish a consumer disclosure standard under which retail suppliers in Washington disclose information on the fuel mix of the electricity products they sell. Fundamental to disclosure is a label that promotes consistency in content and format, that is accurate, reliable, and simple to understand, and that allows verification of the accuracy of information reported.

(5) To ensure that consumer information is verifiable and accurate, certain characteristics of electricity generation must be tracked and compared with information provided to consumers.

(6) The legislature recognizes that the generation, transmission, and delivery of electricity occurs through a complex network of interconnected facilities and contractual arrangements. As a result, the legislature intends that the fuel characteristics disclosed under this chapter represent reasonable approximations that are suitable only for informational or disclosure purposes.

(7) The disclosures required by this chapter reflect the characteristics of electricity products offered by retail suppliers to customers. Nothing in this chapter prohibits a retail supplier from communicating to its customers, owners, taxpayers, or the general public information regarding its investment in or ownership of renewable or nonrenewable generating facilities, its production of electricity, or its wholesale market activities, as long as the information is provided separately from the electricity product content label.

**Sec. 2.** RCW 19.29A.010 and 2015 c 285 s 1 are each reenacted and amended to read as follows:

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

(1) "Biomass generation" (~~means electricity derived from burning solid organic fuels from wood, forest, or field residue, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper chrome arsenite~~) has the same meaning as "biomass energy" defined in RCW 19.285.030.

(2) "Bonneville power administration system mix" means a generation mix sold by the Bonneville power administration that is net of any resource specific sales (~~and that is net of any electricity sold to direct service industrial customers, as defined in section 3(8) of the Pacific Northwest electric power planning and conservation act (16 U.S.C. Sec. 839(a)(8))~~).

(3) ("~~Coal generation~~" means the electricity produced by a ~~generating facility that burns coal as the primary fuel source.~~

~~(4))~~ "Commission" means the utilities and transportation

commission.

~~((5))~~ (4) "Conservation" means an increase in efficiency in the use of energy use that yields a decrease in energy consumption while providing the same or higher levels of service. Conservation includes low-income weatherization programs.

~~((6))~~ (5) "Consumer-owned utility" means a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, or a mutual corporation or association formed under chapter 24.06 RCW, that is engaged in the business of distributing electricity to more than one retail electric customer in the state.

~~((7))~~ (6) "Declared resource" means an electricity source specifically identified by a retail supplier to serve retail electric customers. A declared resource includes a stated quantity of electricity tied directly to a specified generation facility or set of facilities either through ownership or contract purchase, or a contractual right to a stated quantity of electricity from a specified generation facility or set of facilities.

~~((8))~~ (7) "Department" means the department of commerce.

~~((9))~~ (8) "Electric meters in service" means those meters that record in at least nine of twelve calendar months in any calendar year not less than two hundred fifty kilowatt-hours per month.

~~((10))~~ (9) "Electric utility" means a consumer-owned or investor-owned utility as defined in this section.

~~((11))~~ (10) "Electricity" means electric energy measured in kilowatt-hours, or electric capacity measured in kilowatts, or both.

~~((12))~~ "Electricity information coordinator" means the organization selected by the department under RCW 19.29A.080 to: (a) Compile generation data in the Northwest power pool by generating project and by resource category; (b) compare the quantity of electricity from declared resources reported by retail suppliers with available generation from such resources; (c) calculate the net system power mix; and (d) coordinate with other comparable organizations in the western interconnection.

~~((13))~~ (11) "Electricity product" means the electrical energy produced by a generating facility or facilities that a retail supplier sells or offers to sell to retail electric customers in the state of Washington, provided that nothing in this title shall be construed to mean that electricity is a good or product for the purposes of Title 62A RCW, or any other purpose. It does not include electrical energy generated on-site at a retail electric customer's premises.

~~((14))~~ (12) "Electricity product content label" means information presented in a uniform format by a retail supplier to its retail customers and disclosing the information required in RCW 19.29A.060 about the characteristics of an electricity product.

(13) "Fuel attribute" means the characteristic of electricity determined by the fuel used in the generation of that electricity. For a renewable resource, the fuel attribute is included in its nonpower attributes.

(14) "Fuel mix" means the ~~((actual or imputed))~~ sources of electricity sold to retail electric customers, expressed in terms of percentage contribution by resource category. The total fuel mix included in each disclosure shall total one hundred percent.

~~((15))~~ ~~("Geothermal generation" means electricity derived from thermal energy naturally produced within the earth.~~

~~((16))~~ "Governing body" means the council of a city or town, the commissioners of an irrigation district, municipal electric utility, or public utility district, or the board of directors of an electric cooperative or mutual association that has the authority to set and approve rates.

~~((17))~~ ~~"High efficiency cogeneration" means electricity produced by equipment, such as heat or steam used for industrial,~~

~~commercial, heating, or cooling purposes, that meets the federal energy regulatory commission standards for qualifying facilities under the public utility regulatory policies act of 1978.~~

~~((18))~~ ~~"Hydroelectric generation" means a power source created when water flows from a higher elevation to a lower elevation and the flow is converted to electricity in one or more generators at a single facility.~~

~~((19))~~ (16) "Investor-owned utility" means a company owned by investors that meets the definition of RCW 80.04.010 and is engaged in distributing electricity to ~~((more than))~~ one or more retail electric customers in the state.

~~((20))~~ ~~"Landfill gas generation" means electricity produced by a generating facility that uses waste gases produced by the decomposition of organic materials in landfills.~~

~~((21))~~ ~~"Natural gas generation" means electricity produced by a generating facility that burns natural gas as the primary fuel source.~~

~~((22))~~ ~~"Net system power mix" means the fuel mix in the Northwest power pool, net of: (a) Any declared resources in the Northwest power pool identified by in state retail suppliers or out of state entities that offer electricity for sale to retail electric customers; (b) any electricity sold by the Bonneville power administration to direct service industrial customers; and (c) any resource specific sales made by the Bonneville power administration.~~

~~((23))~~ ~~"Northwest power pool" means the generating resources included in the United States portion of the Northwest power pool area as defined by the western systems coordinating council.~~

~~((24))~~ ~~"Oil generation" means electricity produced by a generating facility that burns oil as the primary fuel source.~~

~~((25))~~ (17) "Nonpower attributes" has the same meaning as defined in RCW 19.285.030.

(18) "Private customer information" includes a retail electric customer's name, address, telephone number, and other personally identifying information.

~~((26))~~ (19) "Proprietary customer information" means: (a) Information that relates to the source, technical configuration, destination, and amount of electricity used by a retail electric customer, a retail electric customer's payment history, and household data that is made available by the customer solely by virtue of the utility-customer relationship; and (b) information contained in a retail electric customer's bill.

~~((27))~~ (20) "Renewable energy certificate" means a tradable certificate of proof of one megawatt-hour of electricity from a renewable resource. The certificate includes all of the nonpower attributes associated with that one megawatt-hour of electricity, and the certificate is verified by a renewable energy certificate tracking system specified by the department.

(21) "Renewable resource(s)" ~~((means electricity generation facilities fueled by: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; or (f) biomass energy based on solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper chrome arsenic))~~ has the same meaning as defined in RCW 19.285.030.

~~((28))~~ (22) "Resale" means the purchase and subsequent sale of electricity for profit, but does not include the purchase and the subsequent sale of electricity at the same rate at which the electricity was purchased.

~~((29))~~ (23) "Retail electric customer" means a person or entity that purchases electricity for ultimate consumption and not for resale.

~~((30))~~ (24) "Retail supplier" means an electric utility that offers an electricity product for sale to retail electric customers in the state.

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~~((31)) (25)~~ "Small utility" means any consumer-owned utility with twenty-five thousand or fewer electric meters in service, or that has an average of seven or fewer customers per mile of distribution line.

~~((32) "Solar generation" means electricity derived from radiation from the sun that is directly or indirectly converted to electrical energy.~~

~~(33)) (26) "Source and disposition report" means the report required in section 5 of this act.~~

(27) "State" means the state of Washington.

~~((34) "Waste incineration generation" means electricity derived from burning solid or liquid wastes from businesses, households, municipalities, or waste treatment operations.~~

~~(35) "Wind generation" means electricity created by movement of air that is converted to electrical energy.)~~

(28) "Unspecified source" means an electricity source for which the fuel attribute is unknown or has been separated from the energy.

**Sec. 3.** RCW 19.29A.050 and 2000 c 213 s 3 are each amended to read as follows:

(1) ~~(Beginning in 2001,)~~ Each retail supplier shall provide to its existing and new retail electric customers its annual fuel mix information by generation category as required in RCW 19.29A.060.

(2) Disclosures required under subsection (1) of this section shall be provided through ~~(a disclosure)~~ an electricity product content label presented in a ~~(standardized)~~ uniform format ~~(as required in RCW 19.29A.060(7)).~~

(3) Except as provided in subsection ~~((5))~~ (4) of this section, each retail supplier shall provide the ~~(disclosure)~~ electricity product content label:

(a) To each ~~(of its)~~ new retail electric customers at the time service is established;

(b) To ~~(all of its)~~ each existing retail electric customer ~~((s)), (as a bill insert or other) delivered with the customer's billing statement or as a separately mailed publication, not less than (semiannually) annually; (and)~~

(c) On the retail supplier's publicly accessible web site; and

(d) As part of any marketing material, in electronic, paper, written, or other media format, that is used primarily to promote the sale of any specific electricity product being advertised, contracted for, or offered for sale to current or prospective retail electric customers. For the purposes of this subsection, an electric product does not include conservation programs, equipment or materials, or equipment or materials related to transportation electrification.

(4) ~~(In addition to the disclosure requirements under subsection (3) of this section, each retail supplier shall provide to each electric customer it serves, at least two additional times per year, a publication that contains either:~~

~~(a) The disclosure label;~~

~~(b) A customer service phone number to request a disclosure label; or~~

~~(c) A reference to an electronic form of the disclosure label.~~

(5) Small utilities and mutual light and power companies shall provide the disclosure label not less than annually through a publication that is distributed to all their retail electric customers, and have disclosure label information available in their main business office) Each small utility and mutual light and power company shall provide the electricity product content label not less than annually through a publication that is distributed to all its retail electric customers, publicly display the electricity product content label at its main business office, and provide the electricity product content label on its publicly accessible web site. If a small utility or mutual company engages in marketing a

specific electric product new to that utility it shall provide the ~~(disclosure)~~ electricity product content label described in subsection (3) ~~((e))~~ (d) of this section.

**Sec. 4.** RCW 19.29A.060 and 2000 c 213 s 4 are each amended to read as follows:

(1) Each retail supplier ~~(shall disclose the fuel mix of each electricity product it offers to retail electric customers as follows:~~

~~(a) For an electricity product comprised entirely of declared resources, a retail supplier shall disclose the fuel mix for the electricity product based on the quantity of electric generation from those declared resources for the previous calendar year and any adjustment, if taken, available under subsection (6) of this section.~~

~~(b) For an electricity product comprised of no declared resources, a retail supplier shall report the fuel mix for the electricity product as the fuel mix of net system power for the previous calendar year, as determined by the electricity information coordinator under RCW 19.29A.080.~~

~~(c) For an electricity product comprised of a combination of declared resources and the net system power, a retail supplier shall disclose the fuel mix for the electricity product as a weighted average of the megawatt hours from declared resources and the megawatt hours from the net system power mix for the previous calendar year according to the proportion of declared resources and net system power contained in the electricity product) must disclose to its customers the fuel characteristics of each electricity product it offers to retail electric customers using information consistent with the retail supplier's source and disposition report.~~

(2) The fuel characteristics disclosures required by this section ~~(shall)~~ must identify for each electricity product the percentage of the total electricity product sold by a retail supplier during the previous calendar year from each of the following categories, using a uniform format:

(a) Coal (generation);

(b) Hydroelectric (generation);

(c) Natural gas (generation);

(d) Nuclear (generation); (and)

(e) Petroleum;

(f) Solar;

(g) Wind;

(h) Other generation, except that when a component of the other generation category meets or exceeds two percent of the total electricity product sold by a retail supplier during the previous calendar year, the retail supplier shall identify the component or components and display the fuel mix percentages for these component sources(, which may include, but are not limited to: (i) Biomass generation; (ii) geothermal generation; (iii) landfill gas generation; (iv) oil generation; (v) solar generation; (vi) waste incineration; or (vii) wind generation)). A retail supplier may voluntarily identify any component or components within the other generation category that comprises two percent or less of annual sales; and

(i) Unspecified sources.

(3) ~~((Retail suppliers may separately report a subcategory of natural gas generation to identify high efficiency cogeneration.~~

~~(4) Except as provided in subsection (3) of this section,)) If the percentage amount of unspecified sources identified in subsection (2) of this section exceeds two percent for an electricity product, the retail supplier must include on the label a general description of unspecified sources and an explanation of why some power sources are unknown to the retail supplier.~~

(4) A retail supplier (cannot) may not include in the (disclosure) electricity product content label any environmental quality or environmental impact qualifier, other than those permitted or required by this chapter, related to any of the

generation categories disclosed.

(5) For the portion of an electricity product purchased from the Bonneville power administration, a retail supplier(s) may ~~((disclose))~~ incorporate the Bonneville power administration system mix in its disclosure.

~~(6) ((A retail supplier may adjust its reported fuel mix for known changes in its declared resources for the current year based on any changes in its sources of electricity supply from either generation or contracts. If a retail supplier changes its fuel mix during a calendar year, it shall report those changes to the electricity information coordinator.~~

~~(7) Disclosure of the fuel mix information required in this section shall be made in the following uniform format: A tabular format with two columns, where the first column shall alphabetically list each category and the second column shall display the corresponding percentage of the total that each category represents. The percentage shall be reported as a numeric value rounded to the nearest one percent. The percentages listed for the categories identified must sum to one hundred percent with the table displaying such a total.) A retail supplier may include with the electricity product content label additional information concerning the quantity of renewable energy certificates, if not otherwise included in the retail supplier's declared resources, that are retired for compliance with RCW 19.285.040(2) in the reporting year.~~

NEW SECTION. Sec. 5. (1) Each retail supplier must report to the department each year, based on actual and verified activity in the prior year, the following information on its sources and uses of electricity in Washington:

- (a) Electricity delivered to retail electric customers;
- (b) Purchases or receipts of electricity from declared resources used to serve retail electric customers, by generating facility and fuel type; and
- (c) Purchases or receipts of electricity from unspecified sources used to serve retail electric customers.

(2) The following requirements and limitations apply to the reporting of declared resources:

(a) A retail supplier must report an electricity purchase or receipt as a declared resource if the retail supplier was the direct or indirect owner of the generating facility or acquired the electricity in a transaction, supported by an auditable contract trail, in which the buyer and seller specified the source or set of sources of the electricity.

(b) A retail supplier may assign declared resources and unspecified resources to its retail service for purposes of this section using reasonable methods consistent with its business practices. A retail supplier must identify any change in method from the prior year in its report to the department.

(c) A retail supplier may not report a declared resource as a renewable resource if there exists a renewable energy certificate or other instrument representing the nonpower attributes of the electricity and the retail supplier does not own the renewable energy certificate or instrument.

(d) For an electricity product that is an optional product complying with RCW 19.29A.090, a retail supplier may report as a declared resource any combination of renewable energy certificates and electricity that meets the requirements of RCW 19.29A.090.

(3) Each retail supplier must report as an unspecified source any electricity source that was acquired in a transaction where the fuel attribute was not specified by the seller or provider or was not included in the transaction.

(4) A retail supplier that offers more than one electricity product must report the required source information separately for each product. Individual retail customer rate schedules do not

constitute separate electricity products unless electricity sources are different.

(5) Each retail supplier must report the information required by this section as annual totals in megawatt-hours.

(6) The department must determine fuel mix percentages for each retail supplier based on the information provided in source and disposition reports. Each retail supplier's fuel mix percentages must reflect, to the extent possible, the declared resources reported by that retail supplier.

NEW SECTION. Sec. 6. (1) Any renewable energy certificate included in the source and disposition report must be created and retired within the certificate tracking system approved by the department and must represent renewable generation of a generating facility located in the region of the tracking system.

(2) A renewable energy certificate retired for any of the following purposes may not be included in the source and disposition report:

(a) Voluntary renewable energy programs, except where the electricity product is an optional product complying with RCW 19.29A.090;

(b) Compliance obligations not related to the provision of electricity service to retail customers in Washington; and

(c) Any other purpose established by rule by the department.

(3) A retail supplier must retire any renewable energy certificates included in its source and disposition report within one year after submitting its report.

NEW SECTION. Sec. 7. The department must develop and publish an estimate of the fuel characteristics of the generation sources reasonably available to serve Washington customers and not included as a declared resource of any retail supplier. The department may include or exclude any electricity source as it deems reasonable to accurately represent the characteristics of residual electricity supplies used by retail suppliers in Washington. The department must make available documentation of the inputs and calculations used in making the estimate.

Sec. 8. RCW 19.29A.080 and 2000 c 213 s 6 are each amended to read as follows:

(1) ~~((For the purpose of selecting the electricity information coordinator, the department shall form a work group of interested parties. The department shall invite interested parties, including, but not limited to, representatives from investor owned utilities, consumer owned utilities, the commission, the attorney general's office, consumer advocacy groups, and the environmental community to participate in the work group. In the event an appropriate regional entity is not selected by November 1, 2000, the department shall serve as the electricity information coordinator after notifying the committees of the senate and house of representatives with jurisdiction over energy matters))~~ The department may adopt administrative rules under chapter 34.05 RCW to implement the provisions of this chapter.

(2) The department may receive any lawful gifts, grants, or endowments from public or private sources that are made from time to time, in trust or otherwise, for the use and benefit of the department in implementing this section, and may spend such gifts, grants, or endowments for the purposes of implementing this section.

~~(3) ((As a condition for an appropriate regional entity to be selected under this section to serve as the electricity information coordinator, it must agree to compile the following information:~~

~~(a) Actual generation by fuel mix in the Northwest power pool for the prior calendar year, expressed in megawatt hours. This data will be compiled as it becomes available.~~

~~(b) Adjustments to the actual generation for the prior calendar year that are known and provided to the electricity information~~

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~~coordinator by the end of January of the current calendar year to reflect known changes in declared resources for the current year and changes due to interconnection of new generating resources or decommissioning or sale of existing resources or contracts. These adjustments shall include supporting documentation.~~

~~(c) The amount of electricity from declared resources that retail suppliers will identify in their fuel mix disclosures during the current calendar year. Retail suppliers shall make this data available by the end of January each year.) The department must regularly seek input from retail providers, consumers, environmental advocates, the Bonneville power administration, other state disclosure programs, and other stakeholders regarding potential improvements to the disclosure program established by this act.~~

~~(4) ((Retail suppliers shall make available)) Each retail supplier must make available to the department upon request the following information to support the ownership or contractual rights to declared resources:~~

~~(a) Documentation of ownership of declared resources by retail suppliers; or~~

~~(b) Documentation of contractual rights by retail suppliers to a stated quantity of electricity from a specific generating facility.~~

~~((If the documentation referred to in either (a) or (b) of this subsection is not available, the retail supplier may not identify the electricity source as a declared resource and instead must report the net system power mix for the quantity of electric generation from that resource.~~

~~(5) If the documentation referred to in either subsection (4)(a) or (b) of this section is not available, the retail supplier may not identify the electricity source as a declared resource and instead must report the net system power mix for the quantity of electric generation from that resource.~~

~~(6) As a condition for an appropriate regional entity to be selected under this section to serve as the electricity information coordinator, it must agree to:~~

~~(a) Coordinate with comparable entities or organizations in the western interconnection;~~

~~(b) On or before May 1st of each year, or as soon thereafter as practicable once the data in subsection (3)(a) of this section is available, calculate and make available the net system power mix as follows:~~

~~(i) The actual Northwest power pool generation for the prior calendar year;~~

~~(ii) Plus any adjustments to the Northwest power pool generation as made available to the electricity information coordinator by the end of January of the current calendar year pursuant to RCW 19.29A.060(6);~~

~~(iii) Less the quantity of electricity associated with declared resources claimed by retail suppliers for the current calendar year;~~

~~(iv) Plus other adjustments necessary to ensure that the same resource output is not declared more than once;~~

~~(e) To the extent the information is available, verify that the quantity of electricity associated with the declared resources does not exceed the available generation from those resources.~~

~~(7) Subsections (3) and (6) of this section apply to the department in the event the department assumes the functions of the electricity information coordinator.)~~

NEW SECTION. Sec. 9. Sections 1 and 5 through 7 of this act are each added to chapter 19.29A RCW.

NEW SECTION. Sec. 10. RCW 19.29A.070 (Actions required of department—Convene work group—Report to legislature) and 2000 c 213 s 5 are each repealed."

On page 1, line 2 of the title, after "products;" strike the

remainder of the title and insert "amending RCW 19.29A.050, 19.29A.060, and 19.29A.080; amending 2000 c 213 s 1 (uncodified); reenacting and amending RCW 19.29A.010; adding new sections to chapter 19.29A RCW; and repealing RCW 19.29A.070."

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Environment, Energy & Technology to .

The motion by Senator Carlyle carried and the committee striking amendment was adopted by voice vote.

MOTION

On motion of Senator Carlyle, the rules were suspended, Engrossed Substitute House Bill No. 1428 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Carlyle spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1428 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1428 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Excused: Senators McCoy, Sheldon and Wilson, L.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1428, as amended by the Senate, 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.

SECOND READING

HOUSE BILL NO. 1177, by Representatives Stonier, Caldier, Cody and Schmick

Creating the dental laboratory registry within the department of health and establishing minimum standards for dental laboratories serving dentists in Washington state.

The measure was read the second time.

MOTION

On motion of Senator Cleveland, the rules were suspended, House Bill No. 1177 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Cleveland and O'Ban spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the

Senate to be the final passage of House Bill No. 1177.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1177 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Excused: Senators McCoy, Sheldon and Wilson, L.

HOUSE BILL NO. 1177, 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.

#### SECOND READING

HOUSE BILL NO. 1657, by Representatives Callan, Eslick, Kilduff, Leavitt, Senn, Dolan, Lovick, Frame, Dent, Corry, Appleton, Ryu, Robinson, Jinkins, Goodman, Doglio, Fey, Macri, Ormsby and Davis

Concerning services provided by the office of homeless youth prevention and protection programs.

The measure was read the second time.

#### MOTION

On motion of Senator Kuderer, the rules were suspended, House Bill No. 1657 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kuderer spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 1657.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1657 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Excused: Senators McCoy, Sheldon and Wilson, L.

HOUSE BILL NO. 1657, 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.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 1584, by Representatives Riccelli, Ormsby, Fey, Fitzgibbon, Lovick, Ramos, Stanford and Leavitt

Restricting the availability of state funds to regional transportation planning organizations that do not provide a reasonable opportunity for voting membership to certain federally recognized tribes.

The measure was read the second time.

#### MOTION

On motion of Senator Hobbs, the rules were suspended, Engrossed House Bill No. 1584 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

Senators King and Padden spoke against passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed House Bill No. 1584.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1584 and the bill passed the Senate by the following vote: Yeas, 27; Nays, 19; Absent, 0; Excused, 3.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, Mullet, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Holy, Honeyford, King, O'Ban, Padden, Rivers, Schoesler, Short, Wagoner, Walsh, Warnick and Zeiger

Excused: Senators McCoy, Sheldon and Wilson, L.

ENGROSSED HOUSE BILL NO. 1584, 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.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1594, by House Committee on Labor & Workplace Standards (originally sponsored by Chandler and Chapman)

Clarifying the exemption for wiring and equipment associated with telecommunication installations.

The measure was read the second time.

#### MOTION

On motion of Senator Conway, the rules were suspended, Substitute House Bill No. 1594 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Conway and King spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 1594.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute

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House Bill No. 1594 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Erickson, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Excused: Senators McCoy, Sheldon and Wilson, L.

SUBSTITUTE HOUSE BILL NO. 1594, 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.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1325, by House Committee on Transportation (originally sponsored by Kloba, Steele, Walen, Fey and Slatter)

Regulating personal delivery devices.

The measure was read the second time.

MOTION

Senator Hobbs moved that the following committee striking amendment by the Committee on Transportation be adopted:

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) "Department" means the department of licensing.

(2) "Eligible entity" means a corporation, partnership, association, firm, sole proprietorship, or other entity engaged in business.

(3) "Hazardous material" means any material that has been designated as hazardous under 49 U.S.C. Sec. 5103, and is required to be placarded under subpart F of 49 C.F.R. Part 172.

(4) "Personal delivery device" means an electrically powered device to which all of the following apply:

(a) The device is intended primarily to transport property on sidewalks and crosswalks;

(b) The device weighs less than one hundred twenty pounds, excluding any property being carried in the device;

(c) The device will operate at a maximum speed of six miles per hour; and

(d) The device is equipped with automated driving technology, including software and hardware, enabling the operation of the device, with the support and supervision of a remote personal delivery device operator.

(5)(a) "Personal delivery device operator" means an employee or agent of an eligible entity who has the capability to control or monitor the navigation and operation of a personal delivery device.

(b) "Personal delivery device operator" does not include:

(i) With respect to a delivery or other service rendered by a personal delivery device, the person who requests the delivery or service; or

(ii) A person who only arranges for and dispatches a personal delivery device for a delivery or other service.

**NEW SECTION. Sec. 2.** An eligible entity may operate a personal delivery device so long as all of the following requirements are met:

(1) The personal delivery device is operated in accordance with all ordinances, resolutions, rules and regulations established by the jurisdiction governing the rights-of-way within which the personal delivery device is operated;

(2) An eligible entity may operate a personal delivery device only upon:

(a) Crosswalks; and

(b)(i) Sidewalks; or

(ii) If a sidewalk is not provided or is not accessible, an area where a pedestrian is permitted to travel, subject to RCW 46.61.250, provided that the adjacent roadway has a speed limit of less than forty-five miles per hour;

(3) A personal delivery device operator is controlling or monitoring the navigation and operation of the personal delivery device;

(4) The eligible entity maintains an insurance policy that includes general liability coverage of not less than one hundred thousand dollars for damages arising from the operation of the personal delivery device by the eligible entity and any agent of the eligible entity;

(5) The eligible entity must report any incidents, resulting in personal injury or property damage that meets the accident reporting threshold for property damage under RCW 46.52.030(5), to the law enforcement agency of the local jurisdiction governing the right-of-way containing the sidewalk, crosswalk, or roadway where the incident occurred, within forty-eight hours of the incident;

(6) The eligible entity registers an agent located in Washington state for the purposes of addressing traffic infractions and incidents involving personal delivery devices operated by the eligible entity;

(7) The eligible entity submits a self-certification form to the department with the information required under section 3 of this act, both before operating a personal delivery device and on an annual basis thereafter;

(8) The personal delivery device is equipped with all of the following:

(a) A marker that clearly identifies the name and contact information of the eligible entity operating the personal delivery device, a unique identification number for the device, and the name and contact information including a mailing address of the agent required to be registered under subsection (6) of this section;

(b) A braking system that enables the personal delivery device to come to a controlled stop; and

(c) If the personal delivery device is being operated between sunset and sunrise, a light on both the front and rear of the personal delivery device that is visible on all sides of the personal delivery device in clear weather from a distance of at least five hundred feet to the front and rear of the personal delivery device when directly in front of low beams of headlights on a motor vehicle; and

(9) A delivery device may not be operated in Washington until it has been added to the list in the self-certification and the annual registration fee has been paid.

**NEW SECTION. Sec. 3.** The department of licensing shall create a self-certification form for an eligible entity to submit prior to operating a personal delivery device and thereafter on an annual basis. Through the form, the department must obtain:

(1) The name and address of the eligible entity and its registered agent within Washington, including the registered agent's name, address, and driver's license number, and any other

information the department may require;

(2) The name of the jurisdiction in which the personal delivery device will be operated;

(3) An acknowledgment by the eligible entity that: (a) Each personal delivery device will display a unique identification number and other information specified in section 2(8) of this act; and (b) the registered agent is responsible for any infraction committed by its personal delivery device;

(4) An affirmation by the eligible entity that it possesses insurance as required in section 2 of this act;

(5) A list of any incidents, as described in section 2(5) of this act, and any traffic infractions, as described in section 5 of this act, involving any personal delivery device operated by the eligible entity in Washington state in the previous year; and

(6) A list of each device identified by a unique identification number that the eligible entity intends to operate in the state during the year and payment of a fee of fifty dollars per personal delivery device listed. The fee must be deposited into the motor vehicle fund. The list must be updated and the fee paid prior to the eligible entity operating a device not listed in the annual self-certification.

**NEW SECTION. Sec. 4.** (1) A personal delivery device may not be operated to transport hazardous material, in a quantity and form that may pose an unreasonable risk to health, safety, or property when transported in commerce.

(2) A personal delivery device may not be operated to transport beer, wine, spirits, or other consumable alcohol.

**NEW SECTION. Sec. 5.** (1) A violation of this chapter, or of chapter 46.61 RCW by a personal delivery device, is a traffic infraction. A notice of infraction must be mailed to the registered agent listed on the personal delivery device within fourteen days of the violation.

(2) The registered agent of the eligible entity operating a personal delivery device is responsible for an infraction under RCW 46.63.030(1).

(3) Infractions committed by a personal delivery device are not part of the registered agent's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions issued under this section shall be processed in the same manner as parking infractions, including for the purposes of RCW 3.50.100, 35.20.220, 46.16A.120, and 46.20.270(2). The amount of the fine issued for an infraction issued under this section shall not exceed the amount of a fine issued for other parking infractions within the jurisdiction.

**Sec. 6.** RCW 46.04.320 and 2010 c 217 s 1 are each amended to read as follows:

(1) "Motor vehicle" means ~~((every))~~ a vehicle that is self-propelled ~~((and every))~~ or a vehicle that is propelled by electric power obtained from overhead trolley wires~~((;))~~ but not operated upon rails.

(2) "Motor vehicle" includes:

(a) A neighborhood electric vehicle as defined in RCW 46.04.357~~((,"Motor vehicle" includes));~~

(b) A medium-speed electric vehicle as defined in RCW 46.04.295; and

(c) A golf cart for the purposes of chapter 46.61 RCW.

(3) "Motor vehicle" excludes:

(a) An electric personal assistive mobility device ~~((is not considered a motor vehicle-));~~

(b) A power wheelchair ~~((is not considered a motor vehicle-));~~

(c) A golf cart ~~((is not considered a motor vehicle)),~~ except ~~((for the purposes of chapter 46.61 RCW))~~ as provided in subsection (2) of this section;

(d) A moped, for the purposes of chapter 46.70 RCW; and

~~((e) A personal delivery device as defined in section 1 of this act.~~

**Sec. 7.** RCW 46.04.670 and 2011 c 171 s 19 are each amended to read as follows:

(1) "Vehicle" ~~((includes every))~~ means a device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway~~((, including bicycles)).~~

(2) "Vehicle" ~~((does not include))~~ excludes:

(a) A power wheelchair~~((s))~~ or device~~((s))~~ other than a bicycle~~((s))~~ moved by human or animal power or used exclusively upon stationary rails or tracks~~((Mopeds are not considered vehicles or motor vehicles));~~

(b) A moped, for the purposes of chapter 46.70 RCW~~((Bicycles are not considered vehicles));~~

(c) A bicycle, for the purposes of chapter 46.12, 46.16A, or 46.70 RCW, or for RCW 82.12.045~~((-));~~

(d) An electric personal assistive mobility device~~((s are not considered vehicles or motor vehicles)),~~ for the purposes of chapter 46.12, 46.16A, 46.29, 46.37, or 46.70 RCW~~((-));~~

(e) A golf cart ~~((is not considered a vehicle)),~~ except for the purposes of chapter 46.61 RCW; and

~~((f) A personal delivery device as defined in section 1 of this act, except for the purposes of chapter 46.61 RCW.~~

**NEW SECTION. Sec. 8.** A new section is added to chapter 46.61 RCW to read as follows:

For the purposes of this chapter, "personal delivery device" has the same meaning as in section 1 of this act.

**Sec. 9.** RCW 46.61.050 and 1975 c 62 s 18 are each amended to read as follows:

(1) The driver of any vehicle, every bicyclist, and every pedestrian shall obey, and the operation of every personal delivery device shall follow, the instructions of any official traffic control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exception granted the driver of an authorized emergency vehicle in this chapter.

(2) No provision of this chapter for which official traffic control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible or visible to be seen by an ordinarily observant person. Whenever a particular section does not state that official traffic control devices are required, such section shall be effective even though no devices are erected or in place.

(3) Whenever official traffic control devices are placed in position approximately conforming to the requirements of this chapter, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

(4) Any official traffic control device placed pursuant to the provisions of this chapter and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this chapter, unless the contrary shall be established by competent evidence.

**Sec. 10.** RCW 46.61.055 and 1993 c 153 s 2 are each amended to read as follows:

Whenever traffic is controlled by traffic control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word or legend, and said lights shall indicate and apply to drivers of vehicles ~~((and)),~~ pedestrians, and personal



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delivery devices, as follows:

(1) Green indication

(a) Vehicle operators facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. Vehicle operators turning right or left shall stop to allow other vehicles lawfully within the intersection control area to complete their movements. Vehicle operators turning right or left shall also stop for pedestrians who or personal delivery devices that are lawfully within the intersection control area as required by RCW 46.61.235(1).

(b) Vehicle operators facing a green arrow signal, shown alone or in combination with another indication, may enter the intersection control area only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Vehicle operators shall stop to allow other vehicles lawfully within the intersection control area to complete their movements. Vehicle operators shall also stop for pedestrians who or personal delivery devices that are lawfully within the intersection control area as required by RCW 46.61.235(1).

(c) Unless otherwise directed by a pedestrian control signal, as provided in RCW 46.61.060 as now or hereafter amended, pedestrians or personal delivery devices facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow indication

(a) Vehicle operators facing a steady circular yellow or yellow arrow signal are thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection. Vehicle operators shall stop for pedestrians who or personal delivery devices that are lawfully within the intersection control area as required by RCW 46.61.235(1).

(b) Pedestrians or personal delivery devices facing a steady circular yellow or yellow arrow signal, unless otherwise directed by a pedestrian control signal as provided in RCW 46.61.060 shall not enter the roadway.

(3) Steady red indication

(a) Vehicle operators facing a steady circular red signal alone shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection control area and shall remain standing until an indication to proceed is shown. However, the vehicle operators facing a steady circular red signal may, after stopping proceed to make a right turn from a one-way or two-way street into a two-way street or into a one-way street carrying traffic in the direction of the right turn; or a left turn from a one-way or two-way street into a one-way street carrying traffic in the direction of the left turn; unless a sign posted by competent authority prohibits such movement. Vehicle operators planning to make such turns shall remain stopped to allow other vehicles lawfully within or approaching the intersection control area to complete their movements. Vehicle operators planning to make such turns shall also remain stopped for pedestrians who or personal delivery devices that are lawfully within the intersection control area as required by RCW 46.61.235(1).

(b) Unless otherwise directed by a pedestrian control signal as provided in RCW 46.61.060 as now or hereafter amended, pedestrians or personal delivery devices facing a steady circular red signal alone shall not enter the roadway.

(c) Vehicle operators facing a steady red arrow indication may not enter the intersection control area to make the movement indicated by such arrow, and unless entering the intersection control area to make such other movement as is permitted by other indications shown at the same time, shall stop at a clearly marked

stop line, but if none, before entering a crosswalk on the near side of the intersection control area, or if none, then before entering the intersection control area and shall remain standing until an indication to make the movement indicated by such arrow is shown. However, the vehicle operators facing a steady red arrow indication may, after stopping proceed to make a right turn from a one-way or two-way street into a two-way street or into a one-way street carrying traffic in the direction of the right turn; or a left turn from a one-way street or two-way street into a one-way street carrying traffic in the direction of the left turn; unless a sign posted by competent authority prohibits such movement. Vehicle operators planning to make such turns shall remain stopped to allow other vehicles lawfully within or approaching the intersection control area to complete their movements. Vehicle operators planning to make such turns shall also remain stopped for pedestrians who or personal delivery devices that are lawfully within the intersection control area as required by RCW 46.61.235(1).

(d) Unless otherwise directed by a pedestrian signal, pedestrians or personal delivery devices facing a steady red arrow signal indication shall not enter the roadway.

(4) If an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

**Sec. 11.** RCW 46.61.060 and 1993 c 153 s 3 are each amended to read as follows:

Whenever pedestrian control signals exhibiting the words "Walk" or the walking person symbol or "Don't Walk" or the hand symbol are operating, the signals shall indicate as follows:

(1) WALK or walking person symbol—Pedestrians or personal delivery devices facing such signal may cross the roadway in the direction of the signal. Vehicle operators shall stop for pedestrians who or personal delivery devices that are lawfully moving within the intersection control area on such signal as required by RCW 46.61.235(1).

(2) Steady or flashing DON'T WALK or hand symbol—Pedestrians or personal delivery devices facing such signal shall not enter the roadway. Vehicle operators shall stop for pedestrians who or personal delivery devices that have begun to cross the roadway before the display of either signal as required by RCW 46.61.235(1).

(3) Pedestrian control signals having the "Wait" legend in use on August 6, 1965, shall be deemed authorized signals and shall indicate the same as the "Don't Walk" legend. Whenever such pedestrian control signals are replaced the legend "Wait" shall be replaced by the legend "Don't Walk" or the hand symbol.

**Sec. 12.** RCW 46.61.235 and 2010 c 242 s 1 are each amended to read as follows:

(1) The operator of an approaching vehicle shall stop and remain stopped to allow a pedestrian ((☹)), bicycle, or personal delivery device to cross the roadway within an unmarked or marked crosswalk when the pedestrian ((☹)), bicycle, or personal delivery device is upon or within one lane of the half of the roadway upon which the vehicle is traveling or onto which it is turning. For purposes of this section "half of the roadway" means all traffic lanes carrying traffic in one direction of travel, and includes the entire width of a one-way roadway.

(2) No pedestrian ((☹)), bicycle, or personal delivery device shall suddenly leave a curb or other place of safety and walk, run, or otherwise move into the path of a vehicle which is so close that

it is impossible for the driver to stop.

(3) Subsection (1) of this section does not apply under the conditions stated in RCW 46.61.240(2).

(4) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian ((~~or~~)), bicycle, or personal delivery device to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

(5)(a) If a person is found to have committed an infraction under this section within a school, playground, or crosswalk speed zone created under RCW 46.61.440, the person must be assessed a monetary penalty equal to twice the penalty assessed under RCW 46.63.110. The penalty may not be waived, reduced, or suspended.

(b) Fifty percent of the moneys collected under this subsection must be deposited into the school zone safety account.

**Sec. 13.** RCW 46.61.240 and 1990 c 241 s 5 are each amended to read as follows:

(1) Every pedestrian or personal delivery device crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(2) Where curb ramps exist at or adjacent to intersections or at marked crosswalks in other locations, ((~~disabled~~)) persons with disabilities or personal delivery devices may enter the roadway from the curb ramps and cross the roadway within or as closely as practicable to the crosswalk. All other pedestrian rights and duties as defined elsewhere in this chapter remain applicable.

(3) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(4) Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk.

(5) No pedestrian or personal delivery device shall cross a roadway intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians and personal delivery devices shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements.

(6) No pedestrian or personal delivery device shall cross a roadway at an unmarked crosswalk where an official sign prohibits such crossing.

**Sec. 14.** RCW 46.61.250 and 1990 c 241 s 6 are each amended to read as follows:

(1) Where sidewalks are provided it is unlawful for any pedestrian to walk or otherwise move along and upon an adjacent roadway. Where sidewalks are provided but wheelchair access is not available, ((~~disabled~~)) persons with disabilities who require such access may walk or otherwise move along and upon an adjacent roadway until they reach an access point in the sidewalk.

(2) Where sidewalks are not provided, any pedestrian walking or otherwise moving along and upon a highway, and any personal delivery device moving along and upon a highway, shall, when practicable, walk or move only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction and upon meeting an oncoming vehicle shall move clear of the roadway.

**Sec. 15.** RCW 46.61.261 and 2010 c 242 s 3 are each amended to read as follows:

(1) The driver of a vehicle shall yield the right-of-way to any pedestrian ((~~or~~)), bicycle, or personal delivery device on a sidewalk. The rider of a bicycle shall yield the right-of-way to a

pedestrian on a sidewalk or crosswalk. A personal delivery device must yield the right-of-way to a pedestrian or a bicycle on a sidewalk or crosswalk.

(2)(a) If a person is found to have committed an infraction under this section within a school, playground, or crosswalk speed zone created under RCW 46.61.440, the person must be assessed a monetary penalty equal to twice the penalty assessed under RCW 46.63.110. The penalty may not be waived, reduced, or suspended.

(b) Fifty percent of the moneys collected under this subsection must be deposited into the school zone safety account.

**Sec. 16.** RCW 46.61.264 and 1975 c 62 s 42 are each amended to read as follows:

(1) Upon the immediate approach of an authorized emergency vehicle making use of an audible signal meeting the requirements of RCW 46.37.380 ((~~subsection~~)) (4) and visual signals meeting the requirements of RCW 46.37.190, or of a police vehicle meeting the requirements of RCW 46.61.035 ((~~subsection~~)) (3), every pedestrian and every personal delivery device shall yield the right-of-way to the authorized emergency vehicle.

(2) This section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway nor from the duty to exercise due care to avoid colliding with any pedestrian or any personal delivery device.

**Sec. 17.** RCW 46.61.269 and 1975 c 62 s 44 are each amended to read as follows:

(1) No pedestrian or personal delivery device shall enter or remain upon any bridge or approach thereto beyond a bridge signal gate, or barrier indicating a bridge is closed to through traffic, after a bridge operation signal indication has been given.

(2) No pedestrian or personal delivery device shall pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed.

**Sec. 18.** RCW 46.61.365 and 1965 ex.s. c 155 s 51 are each amended to read as follows:

The driver of a vehicle within a business or residence district emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right-of-way to any pedestrian or personal delivery device as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

**Sec. 19.** RCW 46.61.710 and 2018 c 60 s 5 are each amended to read as follows:

(1) No person shall operate a moped upon the highways of this state unless the moped has been assigned a moped registration number and displays a moped permit in accordance with RCW 46.16A.405(2).

(2) Notwithstanding any other provision of law, a moped may not be operated on a bicycle path or trail, bikeway, equestrian trail, or hiking or recreational trail.

(3) Operation of a moped, electric personal assistive mobility device, or motorized foot scooter on a fully controlled limited access highway is unlawful. Operation of a personal delivery device on any part of a highway other than a sidewalk or crosswalk is unlawful, except as provided in RCW 46.61.240(2) and 46.61.250(2). Operation of a moped on a sidewalk is unlawful. Operation of a motorized foot scooter or class 3 electric-assisted bicycle on a sidewalk is unlawful, unless there is no alternative for a motorized foot scooter or a class 3 electric-

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assisted bicycle to travel over a sidewalk as part of a bicycle or pedestrian path.

(4) Removal of any muffling device or pollution control device from a moped is unlawful.

(5) Subsections (1), (2), and (4) of this section do not apply to electric-assisted bicycles.

(6) Electric-assisted bicycles and motorized foot scooters may have access to highways of the state to the same extent as bicycles, subject to RCW 46.61.160.

(7) Subject to subsection (10) of this section, class 1 and class 2 electric-assisted bicycles and motorized foot scooters may be operated on a shared-use path or any part of a highway designated for the use of bicycles, but local jurisdictions or state agencies may restrict or otherwise limit the access of electric-assisted bicycles and motorized foot scooters, and local jurisdictions or state agencies may regulate the use of class 1 and class 2 electric-assisted bicycles and motorized foot scooters on facilities and properties under their jurisdiction and control. Local regulation of the operation of class 1 or class 2 electric-assisted bicycles, upon a shared use path designated for the use of bicycles that crosses jurisdictional boundaries of two or more local jurisdictions, must be consistent for the entire shared use path in order for the local regulation to be enforceable; however, this does not apply to local regulations of a shared use path in effect as of January 1, 2018.

(8) Class 3 electric-assisted bicycles may be operated on facilities that are within or adjacent to a highway. Class 3 electric-assisted bicycles may not be operated on a shared-use path, except where local jurisdictions may allow the use of class 3 electric-assisted bicycles. State agencies or local jurisdictions may regulate the use of class 3 electric-assisted bicycles on facilities and properties under their jurisdiction and control. Local regulation of the operation of class 3 electric-assisted bicycles, upon a shared use path designated for the use of bicycles that crosses jurisdictional boundaries of two or more local jurisdictions, must be consistent for the entire shared use path in order for the local regulation to be enforceable; however, this does not apply to local regulations of a shared use path in effect as of January 1, 2018.

(9) Except as otherwise provided in this section, an individual shall not operate an electric-assisted bicycle on a trail that is specifically designated as nonmotorized and that has a natural surface tread that is made by clearing and grading the native soil with no added surfacing materials. A local authority or agency of this state having jurisdiction over a trail described in this subsection may allow the operation of an electric-assisted bicycle on that trail.

(10) Subsections (1) and (4) of this section do not apply to motorized foot scooters. Subsection (2) of this section applies to motorized foot scooters when the bicycle path, trail, bikeway, equestrian trail, or hiking or recreational trail was built or is maintained with federal highway transportation funds. Additionally, any new trail or bicycle path or readily identifiable existing trail or bicycle path not built or maintained with federal highway transportation funds may be used by persons operating motorized foot scooters only when appropriately signed.

(11) A person operating an electric personal assistive mobility device (EPAMD) shall obey all speed limits and shall yield the right-of-way to pedestrians and human-powered devices at all times. An operator must also give an audible signal before overtaking and passing a pedestrian. Except for the limitations of this subsection, persons operating an EPAMD have all the rights and duties of a pedestrian.

(12) The use of an EPAMD may be regulated in the following circumstances:

(a) A municipality and the department of transportation may

prohibit the operation of an EPAMD on public highways within their respective jurisdictions where the speed limit is greater than twenty-five miles per hour;

(b) A municipality may restrict the speed of an EPAMD in locations with congested pedestrian or nonmotorized traffic and where there is significant speed differential between pedestrians or nonmotorized traffic and EPAMD operators. The areas in this subsection must be designated by the city engineer or designee of the municipality. Municipalities shall not restrict the speed of an EPAMD in the entire community or in areas in which there is infrequent pedestrian traffic;

(c) A state agency or local government may regulate the operation of an EPAMD within the boundaries of any area used for recreation, open space, habitat, trails, or conservation purposes.

**Sec. 20.** RCW 81.80.010 and 2009 c 94 s 1 are each reenacted and amended to read as follows:

The definitions set forth in this section apply throughout this chapter.

(1) "Common carrier" means any person who undertakes to transport property for the general public by motor vehicle for compensation, whether over regular or irregular routes, or regular or irregular schedules, including motor vehicle operations of other carriers by rail or water and of express or forwarding companies. "Common carrier" does not include a personal delivery device or a personal delivery device operator as those terms are defined in section 1 of this act.

(2) "Contract carrier" includes all motor vehicle operators not included under the terms "common carrier" and "private carrier" as defined in this section, and further includes any person who under special and individual contracts or agreements transports property by motor vehicle for compensation.

(3) "Common carrier" and "contract carrier" includes persons engaged in the business of providing, contracting for, or undertaking to provide transportation of property for compensation over the public highways of the state of Washington as brokers or forwarders.

(4) "Exempt carrier" means any person operating a vehicle exempted under RCW 81.80.040.

(5) "Household goods carrier" means a person who transports for compensation, by motor vehicle within this state, or who advertises, solicits, offers, or enters into an agreement to transport household goods as defined by the commission.

(6) "Motor carrier" includes "common carrier," "contract carrier," "private carrier," and "exempt carrier" as defined in this section.

(7) "Motor vehicle" means any truck, trailer, semitrailer, tractor, dump truck which uses a hydraulic or mechanical device to dump or discharge its load, or any self-propelled or motor-driven vehicle used upon any public highway of this state for the purpose of transporting property, but not including baggage, mail, and express transported on the vehicles of auto transportation companies carrying passengers.

(8) "Person" includes an individual, firm, copartnership, corporation, company, or association or their lessees, trustees, or receivers.

(9) A "private carrier" is a person who transports by his or her own motor vehicle, with or without compensation, property which is owned or is being bought or sold by the person, or property where the person is the seller, purchaser, lessee, or bailee and the transportation is incidental to and in furtherance of some other primary business conducted by the person in good faith.

(10) "Public highway" means every street, road, or highway in this state.

(11) "Vehicle" means every device capable of being moved

upon a public highway and in, upon, or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human or animal power or used exclusively upon stationary rail or tracks.

**NEW SECTION. Sec. 21.** Sections 1 through 5 of this act constitute a new chapter in Title 46 RCW.

**NEW SECTION. Sec. 22.** This act takes effect September 1, 2019."

On page 1, line 1 of the title, after "devices;" strike the remainder of the title and insert "amending RCW 46.04.320, 46.04.670, 46.61.050, 46.61.055, 46.61.060, 46.61.235, 46.61.240, 46.61.250, 46.61.261, 46.61.264, 46.61.269, 46.61.365, and 46.61.710; reenacting and amending RCW 81.80.010; adding a new section to chapter 46.61 RCW; adding a new chapter to Title 46 RCW; prescribing penalties; and providing an effective date."

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to Engrossed Substitute House Bill No. 1325.

The motion by Senator Hobbs carried and the committee striking amendment was adopted by voice vote.

#### MOTION

On motion of Senator Hobbs, the rules were suspended, Engrossed Substitute House Bill No. 1325 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hobbs and King spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1325 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Excused: Senators McCoy, Sheldon and Wilson, L.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1325 as amended by the Senate, 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.

#### SECOND READING

HOUSE BILL NO. 1432, by Representatives Cody, DeBolt, Robinson, Harris, Macri, Slatter, Jinkins, Doglio, Tharinger and Ormsby

Concerning hospital privileges for advanced registered nurse practitioners and physician assistants.

The measure was read the second time.

#### MOTION

On motion of Senator Cleveland, the rules were suspended, House Bill No. 1432 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Cleveland and O'Ban spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 1432.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1432 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Excused: Senators McCoy, Sheldon and Wilson, L.

HOUSE BILL NO. 1432, 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.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 1756, by Representatives Orwall, Mosbrucker, Appleton, Frame, Goodman, Lovick, Gregerson, Sells, Davis, Doglio and Ormsby

Concerning the safety and security of adult entertainers.

The measure was read the second time.

#### MOTION

Senator Saldaña moved that the following committee striking amendment by the Committee on Labor & Commerce be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 49.17 RCW to read as follows:

(1)(a) The department shall develop or contract for the development of training for entertainers. The training must include, but not be limited to:

(i) Education about the rights and responsibilities of entertainers, including with respect to working as an employee or independent contractor;

(ii) Reporting of workplace injuries, including sexual and physical abuse and sexual harassment;

(iii) The risk of human trafficking;

(iv) Financial aspects of the entertainer profession; and

(v) Resources for assistance.

(b) As a condition of receiving or renewing an adult entertainer license issued by a local government, an entertainer must provide proof that the entertainer took the training described in (a) of this

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subsection.

(2) An adult entertainment establishment must provide a panic button in each room in the establishment in which an entertainer may be alone with a customer, and in bathrooms and dressing rooms. An entertainer may use the panic button if the entertainer has been harmed, reasonably believes there is a risk of harm, or there is an other emergency in the entertainer's presence. The entertainer may cease work and leave the immediate area to await the arrival of assistance.

(3)(a) An adult entertainment establishment must record the accusations it receives that a customer has committed an act of violence, including assault, sexual assault, or sexual harassment, towards an entertainer. The establishment must make every effort to obtain the customer's name and if the establishment cannot determine the name, it must record as much identifying information about the customer as is reasonably possible. The establishment must retain a record of the customer's identifying information for at least five years after the most recent accusation.

(b) If an accusation is supported by a statement made under penalty of perjury or other evidence, the adult entertainment establishment must decline to allow the customer to return to the establishment for at least three years after the date of the incident. The establishment must share the information about the customer with other establishments with common ownership and those establishments with common ownership must also decline to allow the customer to enter those establishments for at least three years after the date of the incident. No entertainer may be required to provide such a statement.

(4) For the purposes of enforcement, except for subsection (1) of this section, this section shall be considered a safety or health standard under this chapter.

(5) This section does not affect an employer's responsibility to provide a place of employment free from recognized hazards or to otherwise comply with this chapter and other employment laws.

(6) The department shall convene an entertainer advisory committee to assist with the implementation of this section, including the elements of the training under subsection (1) of this section. At least half of the advisory committee members must be former entertainers who held or current entertainers who have held an adult entertainer license issued by a local government for at least five years. At least one member of the advisory committee must be an adult entertainment establishment which is licensed by a local government and operating in the state of Washington. The advisory committee shall also consider whether additional measures would increase the safety and security of entertainers, such as by examining ways to make the procedures described in subsection (3) of this section more effective and reviewing the fee structure for entertainers. If the advisory committee finds and recommends additional measures that would increase the safety and security of entertainers and that those additional measures would require legislative action, the department must report those recommendations to the appropriate committees of the legislature.

(7) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Adult entertainment" means any exhibition, performance, or dance of any type conducted in a premises where such exhibition, performance, or dance involves an entertainer who:

(i) Is unclothed or in such attire, costume, or clothing as to expose to view any portion of the breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva, or genitals; or

(ii) Touches, caresses, or fondles the breasts, buttocks, anus, genitals, or pubic region of another person, or permits the

touching, caressing, or fondling of the entertainer's own breasts, buttocks, anus, genitals, or pubic region by another person, with the intent to sexually arouse or excite another person.

(b) "Adult entertainment establishment" or "establishment" means any business to which the public, patrons, or members are invited or admitted where an entertainer provides adult entertainment to a member of the public, a patron, or a member.

(c) "Entertainer" means any person who provides adult entertainment within an adult entertainment establishment, whether or not a fee is charged or accepted for entertainment and whether or not the person is an employee under RCW 49.17.020.

(d) "Panic button" means an emergency contact device by which the entertainer may summon immediate on-scene assistance from another entertainer, a security guard, or a representative of the entertainment establishment."

On page 1, line 1 of the title, after "entertainers;" strike the remainder of the title and insert "and adding a new section to chapter 49.17 RCW."

MOTION

Senator Saldaña moved that the following amendment no. 456 by Senator Saldaña be adopted:

On page 1, line 17, after "government" insert "on or after July 1, 2020"

On page 1, line 19, after "subsection." insert "The department must make the training reasonably available to allow entertainers sufficient time to take the training in order to receive or renew their licenses on or after July 1, 2020."

Senator Saldaña spoke in favor of adoption of the amendment to the committee striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 456 by Senator Saldaña on page 1, line 17 to the committee striking amendment.

The motion by Senator Saldaña carried and amendment no. 456 was adopted by voice vote.

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Labor & Commerce as amended to Engrossed House Bill No. 1756.

The motion by Senator Saldaña carried and the committee striking amendment as amended was adopted by voice vote.

MOTION

On motion of Senator Saldaña, the rules were suspended, Engrossed House Bill No. 1756 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Saldaña and King spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed House Bill No. 1756 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1756 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown,

Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Excused: Senators McCoy, Sheldon and Wilson, L.

ENGROSSED HOUSE BILL NO. 1756, as amended by the Senate, 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.

#### SECOND READING

HOUSE BILL NO. 1408, by Representatives Volz, Ormsby, Fitzgibbon and Bergquist

Clarifying the written consent requirement for survivorship benefit options.

The measure was read the second time.

#### MOTION

On motion of Senator Conway, the rules were suspended, House Bill No. 1408 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Conway and Schoesler spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 1408.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1408 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Voting nay: Senator Hasegawa

Excused: Senators McCoy, Sheldon and Wilson, L.

HOUSE BILL NO. 1408, 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.

#### SECOND READING

HOUSE BILL NO. 1208, by Representatives Vick, Kirby and Wylie

Concerning public accounting services.

The measure was read the second time.

#### MOTION

On motion of Senator Conway, the rules were suspended,

House Bill No. 1208 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Conway and King spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 1208.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1208 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Excused: Senators McCoy, Sheldon and Wilson, L.

HOUSE BILL NO. 1208, 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.

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1065, by House Committee on Appropriations (originally sponsored by Cody, Jinkins, Riccelli, Wylie, Ormsby, Tharinger, Macri, Robinson, Slatter, Kloba, Valdez, Appleton, Doglio, Pollet, Stanford, Frame, Reeves and Bergquist)

Protecting consumers from charges for out-of-network health care services.

The measure was read the second time.

#### MOTION

Senator Cleveland moved that the following committee striking amendment by the Committee on Health & Long Term Care be adopted:

Strike everything after the enacting clause and insert the following:

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

(a) Consumers receive surprise bills or balance bills for services provided at out-of-network facilities or by out-of-network health care providers at in-network facilities;

(b) Consumers must not be placed in the middle of contractual disputes between providers and health insurance carriers; and

(c) Facilities, providers, and health insurance carriers all share responsibility to ensure consumers have transparent information on network providers and benefit coverage, and the insurance commissioner is responsible for ensuring that provider networks include sufficient numbers and types of contracted providers to reasonably ensure consumers have in-network access for covered benefits.

(2) It is the intent of the legislature to:

(a) Ban balance billing of consumers enrolled in fully insured, regulated insurance plans and plans offered to public employees under chapter 41.05 RCW for the services described in section 6

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of this act, and to provide self-funded group health plans with an option to elect to be subject to the provisions of this act;

(b) Remove consumers from balance billing disputes and require that out-of-network providers and carriers negotiate out-of-network payments in good faith under the terms of this act; and

(c) Provide an environment that encourages self-funded groups to negotiate out-of-network payments in good faith with providers and facilities in return for balance billing protections.

**Sec. 2.** RCW 48.43.005 and 2016 c 65 s 2 are each amended to read as follows:

Unless otherwise specifically provided, the definitions in this section apply throughout this chapter.

(1) "Adjusted community rate" means the rating method used to establish the premium for health plans adjusted to reflect actuarially demonstrated differences in utilization or cost attributable to geographic region, age, family size, and use of wellness activities.

(2) "Adverse benefit determination" means a denial, reduction, or termination of, or a failure to provide or make payment, in whole or in part, for a benefit, including a denial, reduction, termination, or failure to provide or make payment that is based on a determination of an enrollee's or applicant's eligibility to participate in a plan, and including, with respect to group health plans, a denial, reduction, or termination of, or a failure to provide or make payment, in whole or in part, for a benefit resulting from the application of any utilization review, as well as a failure to cover an item or service for which benefits are otherwise provided because it is determined to be experimental or investigational or not medically necessary or appropriate.

(3) "Applicant" means a person who applies for enrollment in an individual health plan as the subscriber or an enrollee, or the dependent or spouse of a subscriber or enrollee.

(4) "Basic health plan" means the plan described under chapter 70.47 RCW, as revised from time to time.

(5) "Basic health plan model plan" means a health plan as required in RCW 70.47.060(2)(e).

(6) "Basic health plan services" means that schedule of covered health services, including the description of how those benefits are to be administered, that are required to be delivered to an enrollee under the basic health plan, as revised from time to time.

(7) "Board" means the governing board of the Washington health benefit exchange established in chapter 43.71 RCW.

(8)(a) For grandfathered health benefit plans issued before January 1, 2014, and renewed thereafter, "catastrophic health plan" means:

(i) In the case of a contract, agreement, or policy covering a single enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, one thousand seven hundred fifty dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered benefits of at least three thousand five hundred dollars, both amounts to be adjusted annually by the insurance commissioner; and

(ii) In the case of a contract, agreement, or policy covering more than one enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, three thousand five hundred dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered benefits of at least six thousand dollars, both amounts to be adjusted annually by the insurance commissioner.

(b) In July 2008, and in each July thereafter, the insurance commissioner shall adjust the minimum deductible and out-of-pocket expense required for a plan to qualify as a catastrophic plan to reflect the percentage change in the consumer price index for medical care for a preceding twelve months, as determined by the United States department of labor. For a plan year beginning

in 2014, the out-of-pocket limits must be adjusted as specified in section 1302(c)(1) of P.L. 111-148 of 2010, as amended. The adjusted amount shall apply on the following January 1st.

(c) For health benefit plans issued on or after January 1, 2014, "catastrophic health plan" means:

(i) A health benefit plan that meets the definition of catastrophic plan set forth in section 1302(e) of P.L. 111-148 of 2010, as amended; or

(ii) A health benefit plan offered outside the exchange marketplace that requires a calendar year deductible or out-of-pocket expenses under the plan, other than for premiums, for covered benefits, that meets or exceeds the commissioner's annual adjustment under (b) of this subsection.

(9) "Certification" means a determination by a review organization that an admission, extension of stay, or other health care service or procedure has been reviewed and, based on the information provided, meets the clinical requirements for medical necessity, appropriateness, level of care, or effectiveness under the auspices of the applicable health benefit plan.

(10) "Concurrent review" means utilization review conducted during a patient's hospital stay or course of treatment.

(11) "Covered person" or "enrollee" means a person covered by a health plan including an enrollee, subscriber, policyholder, beneficiary of a group plan, or individual covered by any other health plan.

(12) "Dependent" means, at a minimum, the enrollee's legal spouse and dependent children who qualify for coverage under the enrollee's health benefit plan.

(13) "Emergency medical condition" means a medical, mental health, or substance use disorder condition manifesting itself by acute symptoms of sufficient severity(±) including, but not limited to, severe pain or emotional distress, such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical, mental health, or substance use disorder treatment attention to result in a condition (a) placing the health of the individual, or with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy, (b) serious impairment to bodily functions, or (c) serious dysfunction of any bodily organ or part.

(14) "Emergency services" means a medical screening examination, as required under section 1867 of the social security act (42 U.S.C. 1395dd), that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate that emergency medical condition, and further medical examination and treatment, to the extent they are within the capabilities of the staff and facilities available at the hospital, as are required under section 1867 of the social security act (42 U.S.C. 1395dd) to stabilize the patient. Stabilize, with respect to an emergency medical condition, has the meaning given in section 1867(e)(3) of the social security act (42 U.S.C. 1395dd(e)(3)).

(15) "Employee" has the same meaning given to the term, as of January 1, 2008, under section 3(6) of the federal employee retirement income security act of 1974.

(16) "Enrollee point-of-service cost-sharing" or "cost-sharing" means amounts paid to health carriers directly providing services, health care providers, or health care facilities by enrollees and may include copayments, coinsurance, or deductibles.

(17) "Exchange" means the Washington health benefit exchange established under chapter 43.71 RCW.

(18) "Final external review decision" means a determination by an independent review organization at the conclusion of an external review.

(19) "Final internal adverse benefit determination" means an

adverse benefit determination that has been upheld by a health plan or carrier at the completion of the internal appeals process, or an adverse benefit determination with respect to which the internal appeals process has been exhausted under the exhaustion rules described in RCW 48.43.530 and 48.43.535.

(20) "Grandfathered health plan" means a group health plan or an individual health plan that under section 1251 of the patient protection and affordable care act, P.L. 111-148 (2010) and as amended by the health care and education reconciliation act, P.L. 111-152 (2010) is not subject to subtitles A or C of the act as amended.

(21) "Grievance" means a written complaint submitted by or on behalf of a covered person regarding service delivery issues other than denial of payment for medical services or nonprovision of medical services, including dissatisfaction with medical care, waiting time for medical services, provider or staff attitude or demeanor, or dissatisfaction with service provided by the health carrier.

(22) "Health care facility" or "facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed under chapter 70.41 RCW, ambulatory diagnostic, treatment, or surgical facilities licensed under chapter 70.41 RCW, drug and alcohol treatment facilities licensed under chapter 70.96A RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations.

(23) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

(24) "Health care service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(25) "Health carrier" or "carrier" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, or a health maintenance organization as defined in RCW 48.46.020, and includes "issuers" as that term is used in the patient protection and affordable care act (P.L. 111-148).

(26) "Health plan" or "health benefit plan" means any policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care services except the following:

(a) Long-term care insurance governed by chapter 48.84 or 48.83 RCW;

(b) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(c) Coverage supplemental to the coverage provided under chapter 55, Title 10, United States Code;

(d) Limited health care services offered by limited health care service contractors in accordance with RCW 48.44.035;

(e) Disability income;

(f) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;

(g) Workers' compensation coverage;

(h) Accident only coverage;

(i) Specified disease or illness-triggered fixed payment insurance, hospital confinement fixed payment insurance, or other fixed payment insurance offered as an independent, noncoordinated benefit;

(j) Employer-sponsored self-funded health plans;

(k) Dental only and vision only coverage;

(l) Plans deemed by the insurance commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner; and

(m) Civilian health and medical program for the veterans affairs administration (CHAMPVA).

(27) "Individual market" means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

(28) "Material modification" means a change in the actuarial value of the health plan as modified of more than five percent but less than fifteen percent.

(29) "Open enrollment" means a period of time as defined in rule to be held at the same time each year, during which applicants may enroll in a carrier's individual health benefit plan without being subject to health screening or otherwise required to provide evidence of insurability as a condition for enrollment.

(30) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

(31) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

(32) "Review organization" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, health care service contractor as defined in RCW 48.44.010, or health maintenance organization as defined in RCW 48.46.020, and entities affiliated with, under contract with, or acting on behalf of a health carrier to perform a utilization review.

(33) "Small employer" or "small group" means any person, firm, corporation, partnership, association, political subdivision, sole proprietor, or self-employed individual that is actively engaged in business that employed an average of at least one but no more than fifty employees, during the previous calendar year and employed at least one employee on the first day of the plan year, is not formed primarily for purposes of buying health insurance, and in which a bona fide employer-employee relationship exists. In determining the number of employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of taxation by this state, shall be considered an employer. Subsequent to the issuance of a health plan to a small employer and for the purpose of determining eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided, a small employer shall continue to be considered a small employer until the plan anniversary following the date the small employer no longer meets the requirements of this definition. A self-employed individual or sole proprietor who is covered as a group of one must also: (a) Have been employed by the same small employer or small group for at least twelve months prior to application for small group coverage, and (b) verify that he or she derived at least



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seventy-five percent of his or her income from a trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, schedule C or F, for the previous taxable year, except a self-employed individual or sole proprietor in an agricultural trade or business, must have derived at least fifty-one percent of his or her income from the trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, for the previous taxable year.

(34) "Special enrollment" means a defined period of time of not less than thirty-one days, triggered by a specific qualifying event experienced by the applicant, during which applicants may enroll in the carrier's individual health benefit plan without being subject to health screening or otherwise required to provide evidence of insurability as a condition for enrollment.

(35) "Standard health questionnaire" means the standard health questionnaire designated under chapter 48.41 RCW.

(36) "Utilization review" means the prospective, concurrent, or retrospective assessment of the necessity and appropriateness of the allocation of health care resources and services of a provider or facility, given or proposed to be given to an enrollee or group of enrollees.

(37) "Wellness activity" means an explicit program of an activity consistent with department of health guidelines, such as, smoking cessation, injury and accident prevention, reduction of alcohol misuse, appropriate weight reduction, exercise, automobile and motorcycle safety, blood cholesterol reduction, and nutrition education for the purpose of improving enrollee health status and reducing health service costs.

(38) "Allowed amount" means the maximum portion of a billed charge a health carrier will pay, including any applicable enrollee cost-sharing responsibility, for a covered health care service or item rendered by a participating provider or facility or by a nonparticipating provider or facility.

(39) "Balance bill" means a bill sent to an enrollee by an out-of-network provider or facility for health care services provided to the enrollee after the provider or facility's billed amount is not fully reimbursed by the carrier, exclusive of permitted cost-sharing.

(40) "In-network" or "participating" means a provider or facility that has contracted with a carrier or a carrier's contractor or subcontractor to provide health care services to enrollees and be reimbursed by the carrier at a contracted rate as payment in full for the health care services, including applicable cost-sharing obligations.

(41) "Out-of-network" or "nonparticipating" means a provider or facility that has not contracted with a carrier or a carrier's contractor or subcontractor to provide health care services to enrollees.

(42) "Out-of-pocket maximum" or "maximum out-of-pocket" means the maximum amount an enrollee is required to pay in the form of cost-sharing for covered benefits in a plan year, after which the carrier covers the entirety of the allowed amount of covered benefits under the contract of coverage.

(43) "Surgical or ancillary services" means surgery, anesthesiology, pathology, radiology, laboratory, or hospitalist services.

**Sec. 3.** RCW 48.43.093 and 1997 c 231 s 301 are each amended to read as follows:

(1) When conducting a review of the necessity and appropriateness of emergency services or making a benefit determination for emergency services:

(a) A health carrier shall cover emergency services necessary

to screen and stabilize a covered person if a prudent layperson acting reasonably would have believed that an emergency medical condition existed. In addition, a health carrier shall not require prior authorization of ~~((such))~~ emergency services provided prior to the point of stabilization if a prudent layperson acting reasonably would have believed that an emergency medical condition existed. With respect to care obtained from ~~((a nonparticipating))~~ an out-of-network hospital emergency department, a health carrier shall cover emergency services necessary to screen and stabilize a covered person ~~((if a prudent layperson would have reasonably believed that use of a participating hospital emergency department would result in a delay that would worsen the emergency, or if a provision of federal, state, or local law requires the use of a specific provider or facility)).~~ In addition, a health carrier shall not require prior authorization of ~~((such))~~ the services provided prior to the point of stabilization ~~((if a prudent layperson acting reasonably would have believed that an emergency medical condition existed and that use of a participating hospital emergency department would result in a delay that would worsen the emergency)).~~

(b) If an authorized representative of a health carrier authorizes coverage of emergency services, the health carrier shall not subsequently retract its authorization after the emergency services have been provided, or reduce payment for an item or service furnished in reliance on approval, unless the approval was based on a material misrepresentation about the covered person's health condition made by the provider of emergency services.

(c) Coverage of emergency services may be subject to applicable in-network copayments, coinsurance, and deductibles, ~~((and a health carrier may impose reasonable differential cost-sharing arrangements for emergency services rendered by nonparticipating providers, if such differential between cost-sharing amounts applied to emergency services rendered by participating provider versus nonparticipating provider does not exceed fifty dollars. Differential cost sharing for emergency services may not be applied when a covered person presents to a nonparticipating hospital emergency department rather than a participating hospital emergency department when the health carrier requires preauthorization for postevaluation or poststabilization emergency services if:~~

(i) Due to circumstances beyond the covered person's control, the covered person was unable to go to a participating hospital emergency department in a timely fashion without serious impairment to the covered person's health; or

(ii) A prudent layperson possessing an average knowledge of health and medicine would have reasonably believed that he or she would be unable to go to a participating hospital emergency department in a timely fashion without serious impairment to the covered person's health)) as provided in chapter 48.-- RCW (the new chapter created in section 27 of this act).

~~((d))~~ (2) If a health carrier requires preauthorization for postevaluation or poststabilization services, the health carrier shall provide access to an authorized representative twenty-four hours a day, seven days a week, to facilitate review. In order for postevaluation or poststabilization services to be covered by the health carrier, the provider or facility must make a documented good faith effort to contact the covered person's health carrier within thirty minutes of stabilization, if the covered person needs to be stabilized. The health carrier's authorized representative is required to respond to a telephone request for preauthorization from a provider or facility within thirty minutes. Failure of the health carrier to respond within thirty minutes constitutes authorization for the provision of immediately required medically necessary postevaluation and poststabilization services, unless the health carrier documents that it made a good faith effort but

was unable to reach the provider or facility within thirty minutes after receiving the request.

~~((e))~~ (3) A health carrier shall immediately arrange for an alternative plan of treatment for the covered person if ~~((a nonparticipating))~~ an out-of-network emergency provider and health ~~((plan))~~ carrier cannot reach an agreement on which services are necessary beyond those immediately necessary to stabilize the covered person consistent with state and federal laws.

~~((2))~~ (4) Nothing in this section is to be construed as prohibiting the health carrier from requiring notification within the time frame specified in the contract for inpatient admission or as soon thereafter as medically possible but no less than twenty-four hours. Nothing in this section is to be construed as preventing the health carrier from reserving the right to require transfer of a hospitalized covered person upon stabilization. Follow-up care that is a direct result of the emergency must be obtained in accordance with the health plan's usual terms and conditions of coverage. All other terms and conditions of coverage may be applied to emergency services.

### **BALANCE BILLING PROTECTION AND DISPUTE RESOLUTION**

NEW SECTION. **Sec. 4.** This chapter may be known and cited as the balance billing protection act.

NEW SECTION. **Sec. 5.** The definitions in RCW 48.43.005 apply throughout this chapter unless the context clearly requires otherwise.

NEW SECTION. **Sec. 6.** (1) An out-of-network provider or facility may not balance bill an enrollee for the following health care services:

- (a) Emergency services provided to an enrollee; or
- (b) Nonemergency health care services provided to an enrollee at an in-network hospital licensed under chapter 70.41 RCW or an in-network ambulatory surgical facility licensed under chapter 70.230 RCW if the services:

- (i) Involve surgical or ancillary services; and
- (ii) Are provided by an out-of-network provider.

(2) Payment for services described in subsection (1) of this section is subject to the provisions of sections 7 and 8 of this act.

(3)(a) Except to the extent provided in (b) of this subsection, the carrier must hold an enrollee harmless from balance billing when emergency services described in subsection (1)(a) of this section are provided by an out-of-network hospital in a state that borders Washington state.

(b)(i) Upon the effective date of federal legislation prohibiting balance billing when emergency services described in subsection (1)(a) of this section are provided by a hospital, the carrier no longer has a duty to hold enrollees harmless from balance billing under (a) of this subsection; or

(ii) Upon the effective date of an interstate compact with a state bordering Washington state or enactment of legislation by a state bordering Washington state prohibiting balance billing when emergency services described in subsection (1)(a) of this section are provided by a hospital located in that border state to a Washington state resident, the carrier no longer has a duty to hold enrollees harmless from balance billing under (a) of this subsection for services provided by a hospital in that border state. The commissioner shall engage with border states on appropriate means to prohibit balance billing by out-of-state hospitals of Washington state residents.

(4) This section applies to health care providers or facilities providing services to members of entities administering a self-funded group health plan and its plan members only if the entity has elected to participate in sections 6 through 8 of this act as provided in section 23 of this act.

NEW SECTION. **Sec. 7.** (1) If an enrollee receives emergency or nonemergency health care services under the circumstances described in section 6 of this act:

(a) The enrollee satisfies his or her obligation to pay for the health care services if he or she pays the in-network cost-sharing amount specified in the enrollee's or applicable group's health plan contract. The enrollee's obligation must be determined using the carrier's median in-network contracted rate for the same or similar service in the same or similar geographical area. The carrier must provide an explanation of benefits to the enrollee and the out-of-network provider that reflects the cost-sharing amount determined under this subsection.

(b) The carrier, out-of-network provider, or out-of-network facility, and an agent, trustee, or assignee of the carrier, out-of-network provider, or out-of-network facility must ensure that the enrollee incurs no greater cost than the amount determined under (a) of this subsection.

(c) The out-of-network provider or out-of-network facility, and an agent, trustee, or assignee of the out-of-network provider or out-of-network facility may not balance bill or otherwise attempt to collect from the enrollee any amount greater than the amount determined under (a) of this subsection. This does not impact the provider's ability to collect a past due balance for that cost-sharing amount with interest.

(d) The carrier must treat any cost-sharing amounts determined under (a) of this subsection paid by the enrollee for an out-of-network provider or facility's services in the same manner as cost-sharing for health care services provided by an in-network provider or facility and must apply any cost-sharing amounts paid by the enrollee for such services toward the enrollee's maximum out-of-pocket payment obligation.

(e) If the enrollee pays the out-of-network provider or out-of-network facility an amount that exceeds the in-network cost-sharing amount determined under (a) of this subsection, the provider or facility must refund any amount in excess of the in-network cost-sharing amount to the enrollee within thirty business days of receipt. Interest must be paid to the enrollee for any unrefunded payments at a rate of twelve percent beginning on the first calendar day after the thirty business days.

(2) The allowed amount paid to an out-of-network provider for health care services described under section 6 of this act shall be a commercially reasonable amount, based on payments for the same or similar services provided in a similar geographic area. Within thirty calendar days of receipt of a claim from an out-of-network provider or facility, the carrier shall offer to pay the provider or facility a commercially reasonable amount. If the out-of-network provider or facility wants to dispute the carrier's payment, the provider or facility must notify the carrier no later than thirty calendar days after receipt of payment or payment notification from the carrier. If the out-of-network provider or facility disputes the carrier's initial offer, the carrier and provider or facility have thirty calendar days from the initial offer to negotiate in good faith. If the carrier and the out-of-network provider or facility do not agree to a commercially reasonable payment amount within thirty calendar days, and the carrier, out-of-network provider or out-of-network facility chooses to pursue further action to resolve the dispute, the dispute shall be resolved through arbitration, as provided in section 8 of this act.

(3) The carrier must make payments for health care services described in section 6 of this act provided by out-of-network providers or facilities directly to the provider or facility, rather than the enrollee.

(4) Carriers must make available through electronic and other methods of communication generally used by a provider to verify enrollee eligibility and benefits information regarding whether an enrollee's health plan is subject to the requirements of this act.

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(5) A health care provider, hospital, or ambulatory surgical facility may not require a patient at any time, for any procedure, service, or supply, to sign or execute by electronic means, any document that would attempt to avoid, waive, or alter any provision of this section.

(6) This section shall only apply to health care providers or facilities providing services to members of entities administering a self-funded group health plan and its plan members if the entity has elected to participate in sections 6 through 8 of this act as provided in section 23 of this act.

**NEW SECTION. Sec. 8.** (1)(a) Notwithstanding RCW 48.43.055 and 48.18.200, if good faith negotiation, as described in section 7 of this act does not result in resolution of the dispute, and the carrier, out-of-network provider or out-of-network facility chooses to pursue further action to resolve the dispute, the carrier, out-of-network provider, or out-of-network facility shall initiate arbitration to determine a commercially reasonable payment amount. To initiate arbitration, the carrier, provider, or facility must provide written notification to the commissioner and the noninitiating party no later than ten calendar days following completion of the period of good faith negotiation under section 7 of this act. The notification to the noninitiating party must state the initiating party's final offer. No later than thirty calendar days following receipt of the notification, the noninitiating party must provide its final offer to the initiating party. The parties may reach an agreement on reimbursement during this time and before the arbitration proceeding.

(b) Multiple claims may be addressed in a single arbitration proceeding if the claims at issue:

- (i) Involve identical carrier and provider or facility parties;
- (ii) Involve claims with the same or related current procedural terminology codes relevant to a particular procedure; and
- (iii) Occur within a period of two months of one another.

(2) Within seven calendar days of receipt of notification from the initiating party, the commissioner must provide the parties with a list of approved arbitrators or entities that provide arbitration. The arbitrators on the list must be trained by the American arbitration association or the American health lawyers association and should have experience in matters related to medical or health care services. The parties may agree on an arbitrator from the list provided by the commissioner. If the parties do not agree on an arbitrator, they must notify the commissioner who must provide them with the names of five arbitrators from the list. Each party may veto two of the five named arbitrators. If one arbitrator remains, that person is the chosen arbitrator. If more than one arbitrator remains, the commissioner must choose the arbitrator from the remaining arbitrators. The parties and the commissioner must complete this selection process within twenty calendar days of receipt of the original list from the commissioner.

(3)(a) Each party must make written submissions to the arbitrator in support of its position no later than thirty calendar days after the final selection of the arbitrator. The initiating party must include in its written submission the evidence and methodology for asserting that the amount proposed to be paid is or is not commercially reasonable. A party that fails to make timely written submissions under this section without good cause shown shall be considered to be in default and the arbitrator shall require the party in default to pay the final offer amount submitted by the party not in default and may require the party in default to pay expenses incurred to date in the course of arbitration, including the arbitrator's expenses and fees and the reasonable attorneys' fees of the party not in default. No later than thirty calendar days after the receipt of the parties' written submissions, the arbitrator must: Issue a written decision requiring payment of

the final offer amount of either the initiating party or the noninitiating party; notify the parties of its decision; and provide the decision and the information described in section 9 of this act regarding the decision to the commissioner.

(b) In reviewing the submissions of the parties and making a decision related to whether payment should be made at the final offer amount of the initiating party or the noninitiating party, the arbitrator must consider the following factors:

(i) The evidence and methodology submitted by the parties to assert that their final offer amount is reasonable; and

(ii) Patient characteristics and the circumstances and complexity of the case, including time and place of service and whether the service was delivered at a level I or level II trauma center or a rural facility, that are not already reflected in the provider's billing code for the service.

(c) The arbitrator may not require extrinsic evidence of authenticity for admitting data from the Washington state all payer claims database data set developed under section 26 of this act into evidence.

(d) The arbitrator may also consider other information that a party believes is relevant to the factors included in (b) of this subsection or other factors the arbitrator requests and information provided by the parties that is relevant to such request, including the Washington state all payer claims database data set developed under section 26 of this act.

(4) Expenses incurred in the course of arbitration, including the arbitrator's expenses and fees, but not including attorneys' fees, must be divided equally among the parties to the arbitration. The enrollee is not liable for any of the costs of the arbitration and may not be required to participate in the arbitration proceeding as a witness or otherwise.

(5) Within ten business days of a party notifying the commissioner and the noninitiating party of intent to initiate arbitration, both parties shall agree to and execute a nondisclosure agreement. The nondisclosure agreement must not preclude the arbitrator from submitting the arbitrator's decision to the commissioner under subsection (3) of this section or impede the commissioner's duty to prepare the annual report under section 9 of this act.

(6) Chapter 7.04A RCW applies to arbitrations conducted under this section, but in the event of a conflict between this section and chapter 7.04A RCW, this section governs.

(7) This section applies to health care providers or facilities providing services to members of entities administering a self-funded group health plan and its plan members only if the entity has elected to participate in sections 6 through 8 of this act as provided in section 23 of this act.

(8) An entity administering a self-funded group health plan that has elected to participate in this section pursuant to section 23 of this act shall comply with the provisions of this section.

**NEW SECTION. Sec. 9.** (1) The commissioner must prepare an annual report summarizing the dispute resolution information provided by arbitrators under section 8 of this act. The report must include summary information related to the matters decided through arbitration, as well as the following information for each dispute resolved through arbitration: The name of the carrier; the name of the health care provider; the health care provider's employer or the business entity in which the provider has an ownership interest; the health care facility where the services were provided; and the type of health care services at issue.

(2) The commissioner must post the report on the office of the insurance commissioner's web site and submit the report in compliance with RCW 43.01.036 to the appropriate committees of the legislature, annually by July 1st.

(3) This section expires January 1, 2024.

### TRANSPARENCY

**NEW SECTION. Sec. 10.** (1) The commissioner, in consultation with health carriers, health care providers, health care facilities, and consumers, must develop standard template language for a notice of consumer rights notifying consumers that:

(a) The prohibition against balance billing in this chapter is applicable to health plans issued by carriers in Washington state and self-funded group health plans that elect to participate in sections 6 through 8 of this act as provided in section 23 of this act;

(b) They cannot be balance billed for the health care services described in section 6 of this act and will receive the protections provided by section 7 of this act; and

(c) They may be balance billed for health care services under circumstances other than those described in section 6 of this act or if they are enrolled in a health plan to which this act does not apply, and steps they can take if they are balance billed.

(2) The standard template language must include contact information for the office of the insurance commissioner so that consumers may contact the office of the insurance commissioner if they believe they have received a balance bill in violation of this chapter.

(3) The office of the insurance commissioner shall determine by rule when and in what format health carriers, health care providers, and health care facilities must provide consumers with the notice developed under this section.

**NEW SECTION. Sec. 11.** (1)(a) A hospital or ambulatory surgical facility must post the following information on its web site, if one is available:

(i) The listing of the carrier health plan provider networks with which the hospital or ambulatory surgical facility is an in-network provider, based upon the information provided by the carrier pursuant to RCW 48.43.730(7); and

(ii) The notice of consumer rights developed under section 10 of this act.

(b) If the hospital or ambulatory surgical facility does not maintain a web site, this information must be provided to consumers upon an oral or written request.

(2) Posting or otherwise providing the information required in this section does not relieve a hospital or ambulatory surgical facility of its obligation to comply with the provisions of this chapter.

(3) Not less than thirty days prior to executing a contract with a carrier, a hospital or ambulatory surgical facility must provide the carrier with a list of the nonemployed providers or provider groups contracted to provide surgical or ancillary services at the hospital or ambulatory surgical facility. The hospital or ambulatory surgical facility must notify the carrier within thirty days of a removal from or addition to the nonemployed provider list. A hospital or ambulatory surgical facility also must provide an updated list of these providers within fourteen calendar days of a request for an updated list by a carrier.

**NEW SECTION. Sec. 12.** (1)(a) A health care provider must provide the following information on its web site, if one is available:

(i) The listing of the carrier health plan provider networks with which the provider contracts, based upon the information provided by the carrier pursuant to RCW 48.43.730(7); and

(ii) The notice of consumer rights developed under section 10 of this act.

(b) If the health care provider does not maintain a web site, this information must be provided to consumers upon an oral or

written request.

(2) Posting or otherwise providing the information required in this section does not relieve a provider of its obligation to comply with the provisions of this chapter.

(3) An in-network provider must submit accurate information to a carrier regarding the provider's network status in a timely manner, consistent with the terms of the contract between the provider and the carrier.

**NEW SECTION. Sec. 13.** (1) A carrier must update its web site and provider directory no later than thirty days after the addition or termination of a facility or provider.

(2) A carrier must provide an enrollee with:

(a) A clear description of the health plan's out-of-network health benefits; and

(b) The notice of consumer rights developed under section 10 of this act;

(c) Notification that if the enrollee receives services from an out-of-network provider or facility, under circumstances other than those described in section 6 of this act, the enrollee will have the financial responsibility applicable to services provided outside the health plan's network in excess of applicable cost-sharing amounts and that the enrollee may be responsible for any costs in excess of those allowed by the health plan;

(d) Information on how to use the carrier's member transparency tools under RCW 48.43.007;

(e) Upon request, information regarding whether a health care provider is in-network or out-of-network, and whether there are in-network providers available to provide surgical or ancillary services at specified in-network hospitals or ambulatory surgical facilities; and

(f) Upon request, an estimated range of the out-of-pocket costs for an out-of-network benefit.

### ENFORCEMENT

**NEW SECTION. Sec. 14.** (1) If the commissioner has cause to believe that any health care provider, hospital, or ambulatory surgical facility, has engaged in a pattern of unresolved violations of section 6 or 7 of this act, the commissioner may submit information to the department of health or the appropriate disciplining authority for action. Prior to submitting information to the department of health or the appropriate disciplining authority, the commissioner may provide the health care provider, hospital, or ambulatory surgical facility, with an opportunity to cure the alleged violations or explain why the actions in question did not violate section 6 or 7 of this act.

(2) If any health care provider, hospital, or ambulatory surgical facility, has engaged in a pattern of unresolved violations of section 6 or 7 of this act, the department of health or the appropriate disciplining authority may levy a fine or cost recovery upon the health care provider, hospital, or ambulatory surgical facility in an amount not to exceed the applicable statutory amount per violation and take other action as permitted under the authority of the department or disciplining authority. Upon completion of its review of any potential violation submitted by the commissioner or initiated directly by an enrollee, the department of health or the disciplining authority shall notify the commissioner of the results of the review, including whether the violation was substantiated and any enforcement action taken as a result of a finding of a substantiated violation.

(3) If a carrier has engaged in a pattern of unresolved violations of any provision of this chapter, the commissioner may levy a fine or apply remedies authorized under chapter 48.02 RCW, RCW 48.44.166, 48.46.135, or 48.05.185.

(4) For purposes of this section, "disciplining authority" means the agency, board, or commission having the authority to take

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disciplinary action against a holder of, or applicant for, a professional or business license upon a finding of a violation of chapter 18.130 RCW or a chapter specified under RCW 18.130.040.

**NEW SECTION. Sec. 15.** The commissioner may adopt rules to implement and administer this chapter, including rules governing the dispute resolution process established in section 8 of this act.

**NEW SECTION. Sec. 16.** A new section is added to chapter 48.30 RCW to read as follows:

(1) It is an unfair or deceptive practice for a health carrier to initiate, with such frequency as to indicate a general business practice, arbitration under section 8 of this act with respect to claims submitted by out-of-network providers for services included in section 6 of this act that request payment of a commercially reasonable amount, based on payments for the same or similar services provided in a similar geographic area.

(2) As used in this section, "health carrier" has the same meaning as in RCW 48.43.005.

**Sec. 17.** RCW 18.130.180 and 2018 c 300 s 4 and 2018 c 216 s 2 are each reenacted and amended to read as follows:

The following conduct, acts, or conditions constitute unprofessional conduct for any license holder under the jurisdiction of this chapter:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(2) Misrepresentation or concealment of a material fact in obtaining a license or in reinstatement thereof;

(3) All advertising which is false, fraudulent, or misleading;

(4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. The use of a nontraditional treatment by itself shall not constitute unprofessional conduct, provided that it does not result in injury to a patient or create an unreasonable risk that a patient may be harmed;

(5) Suspension, revocation, or restriction of the individual's license to practice any health care profession by competent authority in any state, federal, or foreign jurisdiction, a certified copy of the order, stipulation, or agreement being conclusive evidence of the revocation, suspension, or restriction;

(6) Except when authorized by RCW 18.130.345, the possession, use, prescription for use, or distribution of controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes, diversion of controlled substances or legend drugs, the violation of any drug law, or prescribing controlled substances for oneself;

(7) Violation of any state or federal statute or administrative rule regulating the profession in question, including any statute or rule defining or establishing standards of patient care or professional conduct or practice;

(8) Failure to cooperate with the disciplining authority by:

(a) Not furnishing any papers, documents, records, or other

items;

(b) Not furnishing in writing a full and complete explanation covering the matter contained in the complaint filed with the disciplining authority;

(c) Not responding to subpoenas issued by the disciplining authority, whether or not the recipient of the subpoena is the accused in the proceeding; or

(d) Not providing reasonable and timely access for authorized representatives of the disciplining authority seeking to perform practice reviews at facilities utilized by the license holder;

(9) Failure to comply with an order issued by the disciplining authority or a stipulation for informal disposition entered into with the disciplining authority;

(10) Aiding or abetting an unlicensed person to practice when a license is required;

(11) Violations of rules established by any health agency;

(12) Practice beyond the scope of practice as defined by law or rule;

(13) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

(14) Failure to adequately supervise auxiliary staff to the extent that the consumer's health or safety is at risk;

(15) Engaging in a profession involving contact with the public while suffering from a contagious or infectious disease involving serious risk to public health;

(16) Promotion for personal gain of any unnecessary or inefficacious drug, device, treatment, procedure, or service;

(17) Conviction of any gross misdemeanor or felony relating to the practice of the person's profession. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(18) The procuring, or aiding or abetting in procuring, a criminal abortion;

(19) The offering, undertaking, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine, or the treating, operating, or prescribing for any health condition by a method, means, or procedure which the licensee refuses to divulge upon demand of the disciplining authority;

(20) The willful betrayal of a practitioner-patient privilege as recognized by law;

(21) Violation of chapter 19.68 RCW or a pattern of violations of section 6 or 7 of this act;

(22) Interference with an investigation or disciplinary proceeding by willful misrepresentation of facts before the disciplining authority or its authorized representative, or by the use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action, or by the use of financial inducements to any patient or witness to prevent or attempt to prevent him or her from providing evidence in a disciplinary proceeding;

(23) Current misuse of:

(a) Alcohol;

(b) Controlled substances; or

(c) Legend drugs;

(24) Abuse of a client or patient or sexual contact with a client or patient;

(25) Acceptance of more than a nominal gratuity, hospitality, or subsidy offered by a representative or vendor of medical or health-related products or services intended for patients, in contemplation of a sale or for use in research publishable in professional journals, where a conflict of interest is presented, as

defined by rules of the disciplining authority, in consultation with the department, based on recognized professional ethical standards;

(26) Violation of RCW 18.130.420;

(27) Performing conversion therapy on a patient under age eighteen.

**NEW SECTION. Sec. 18.** A new section is added to chapter 70.41 RCW to read as follows:

If the insurance commissioner reports to the department that he or she has cause to believe that a hospital has engaged in a pattern of violations of section 6 or 7 of this act, and the report is substantiated after investigation, the department may levy a fine upon the hospital in an amount not to exceed one thousand dollars per violation and take other formal or informal disciplinary action as permitted under the authority of the department.

**NEW SECTION. Sec. 19.** A new section is added to chapter 70.230 RCW to read as follows:

If the insurance commissioner reports to the department that he or she has cause to believe that an ambulatory surgical facility has engaged in a pattern of violations of section 6 or 7 of this act, and the report is substantiated after investigation, the department may levy a fine upon the ambulatory surgical facility in an amount not to exceed one thousand dollars per violation and take other formal or informal disciplinary action as permitted under the authority of the department.

**NEW SECTION. Sec. 20.** A new section is added to chapter 70.42 RCW to read as follows:

If the insurance commissioner reports to the department that he or she has cause to believe that a medical testing site has engaged in a pattern of violations of section 6 or 7 of this act, and the report is substantiated after investigation, the department may levy a fine upon the medical testing site in an amount not to exceed one thousand dollars per violation and take other formal or informal disciplinary action as permitted under the authority of the department.

#### APPLICABILITY

**Sec. 21.** RCW 41.05.017 and 2016 c 139 s 4 are each amended to read as follows:

Each health plan that provides medical insurance offered under this chapter, including plans created by insuring entities, plans not subject to the provisions of Title 48 RCW, and plans created under RCW 41.05.140, are subject to the provisions of RCW 48.43.500, 70.02.045, 48.43.505 through 48.43.535, 48.43.537, 48.43.545, 48.43.550, 70.02.110, 70.02.900, 48.43.190, ~~(and)~~ 48.43.083, and chapter 48,--- RCW (the new chapter created in section 27 of this act).

**NEW SECTION. Sec. 22.** This chapter does not apply to health plans that provide benefits under chapter 74.09 RCW.

**NEW SECTION. Sec. 23.** The provisions of this chapter apply to a self-funded group health plan governed by the provisions of the federal employee retirement income security act of 1974 (29 U.S.C. Sec. 1001 et seq.) only if the self-funded group health plan elects to participate in the provisions of sections 6 through 8 of this act. To elect to participate in these provisions, the self-funded group health plan shall provide notice, on an annual basis, to the commissioner in a manner prescribed by the commissioner, attesting to the plan's participation and agreeing to be bound by sections 6 through 8 of this act. An entity administering a self-funded health benefits plan that elects to participate under this section, shall comply with the provisions of sections 6 through 8 of this act.

**NEW SECTION. Sec. 24.** This chapter must be liberally construed to promote the public interest by ensuring that consumers are not billed out-of-network charges and do not receive additional bills from providers under the circumstances described in section 6 of this act.

**NEW SECTION. Sec. 25.** When determining the adequacy of a proposed provider network or the ongoing adequacy of an in-force provider network, the commissioner must consider whether the carrier's proposed provider network or in-force provider network includes a sufficient number of contracted providers of emergency and surgical or ancillary services at or for the carrier's contracted in-network hospitals or ambulatory surgical facilities to reasonably ensure enrollees have in-network access to covered benefits delivered at that facility.

**NEW SECTION. Sec. 26.** A new section is added to chapter 43.371 RCW to read as follows:

(1) The office of the insurance commissioner shall contract with the state agency responsible for administration of the database and the lead organization to establish a data set and business process to provide health carriers, health care providers, hospitals, ambulatory surgical facilities, and arbitrators with data to assist in determining commercially reasonable payments and resolving payment disputes for out-of-network medical services rendered by health care facilities or providers.

(a) The data set and business process must be developed in collaboration with health carriers, health care providers, hospitals, and ambulatory surgical facilities.

(b) The data set must provide the amounts for the services described in section 6 of this act. The data used to calculate the median in-network and out-of-network allowed amounts and the median billed charge amounts by geographic area, for the same or similar services, must be drawn from commercial health plan claims, and exclude medicare and medicaid claims as well as claims paid on other than a fee-for-service basis.

(c) The data set and business process must be available beginning November 1, 2019, and must be reviewed by an advisory committee established under chapter 43.371 RCW that includes representatives of health carriers, health care providers, hospitals, and ambulatory surgical facilities for validation before use.

(2) The 2019 data set must be based upon the most recently available full calendar year of claims data. The data set for each subsequent year must be adjusted by applying the consumer price index-medical component established by the United States department of labor, bureau of labor statistics to the previous year's data set.

**NEW SECTION. Sec. 27.** Sections 4 through 15, 22 through 25, and 31 of this act constitute a new chapter in Title 48 RCW.

**Sec. 28.** RCW 48.43.055 and 2005 c 172 s 19 are each amended to read as follows:

(1) Except as provided by subsection (2) of this section, each health carrier as defined under RCW 48.43.005 shall file with the commissioner its procedures for review and adjudication of complaints initiated by health care providers. Procedures filed under this section shall provide a fair review for consideration of complaints. Every health carrier shall provide reasonable means allowing any health care provider aggrieved by actions of the health carrier to be heard after submitting a written request for review. If the health carrier fails to grant or reject a request within thirty days after it is made, the complaining health care provider may proceed as if the complaint had been rejected. A complaint that has been rejected by the health carrier may be submitted to

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nonbinding mediation. Mediation shall be conducted under chapter 7.07 RCW, or any other rules of mediation agreed to by the parties. This section is solely for resolution of provider complaints. Complaints by, or on behalf of, a covered person are subject to the grievance processes in RCW 48.43.530.

(2) For purposes of out-of-network payment disputes between a health carrier and health care provider covered under the provisions of chapter 48.--- RCW (the new chapter created in section 27 of this act), the arbitration provisions of chapter 48.--- RCW (the new chapter created in section 27 of this act) apply.

**Sec. 29.** RCW 48.18.200 and 1947 c 79 s .18.20 are each amended to read as follows:

(1) Except as provided by subsection (3) of this section, no insurance contract delivered or issued for delivery in this state and covering subjects located, resident, or to be performed in this state, shall contain any condition, stipulation, or agreement

(a) requiring it to be construed according to the laws of any other state or country except as necessary to meet the requirements of the motor vehicle financial responsibility laws of such other state or country; or

(b) depriving the courts of this state of the jurisdiction of action against the insurer; or

(c) limiting right of action against the insurer to a period of less than one year from the time when the cause of action accrues in connection with all insurances other than property and marine and transportation insurances. In contracts of property insurance, or of marine and transportation insurance, such limitation shall not be to a period of less than one year from the date of the loss.

(2) Any such condition, stipulation, or agreement in violation of this section shall be void, but such voiding shall not affect the validity of the other provisions of the contract.

(3) For purposes of out-of-network payment disputes between a health carrier and health care provider covered under the provisions of chapter 48.--- RCW (the new chapter created in section 27 of this act), the arbitration provisions of chapter 48.--- RCW (the new chapter created in section 27 of this act) apply.

**Sec. 30.** RCW 48.43.730 and 2013 c 277 s 1 are each amended to read as follows:

(1) For the purposes of this section:

(a) "Carrier" means a:

(i) Health carrier as defined in RCW 48.43.005; and

(ii) Limited health care service contractor that offers limited health care service as defined in RCW 48.44.035.

(b) "Provider" means:

(i) A health care provider as defined in RCW 48.43.005;

(ii) A participating provider as defined in RCW 48.44.010;

(iii) A health care facility, as defined in RCW 48.43.005; and

(iv) Intermediaries that have agreed in writing with a carrier to provide access to providers under this subsection (1)(b) who render covered services to enrollees of a carrier.

(c) "Provider compensation agreement" means any written agreement that includes specific information about payment methodology, payment rates, and other terms that determine the remuneration a carrier will pay to a provider.

(d) "Provider contract" means a written contract between a carrier and a provider for any health care services rendered to an enrollee.

(2) A carrier must file all provider contracts and provider compensation agreements with the commissioner thirty calendar days before use. When a carrier and provider negotiate a provider contract or provider compensation agreement that deviates from a filed agreement, the carrier must also file that specific contract or agreement with the commissioner thirty calendar days before use.

(a) Any provider contract and related provider compensation agreements not affirmatively disapproved by the commissioner are deemed approved, except the commissioner may extend the approval date an additional fifteen calendar days upon giving notice before the expiration of the initial thirty-day period.

(b) Changes to previously filed and approved provider compensation agreements modifying the compensation amount or related terms that help determine the compensation amount must be filed and are deemed approved upon filing if no other changes are made to the previously approved provider contract or compensation agreement.

(3) The commissioner may not base a disapproval of a provider compensation agreement on the amount of compensation or other financial arrangements between the carrier and the provider, unless that compensation amount causes the underlying health benefit plan to otherwise be in violation of state or federal law. This subsection does not grant the commissioner the authority to regulate provider reimbursement amounts.

(4) The commissioner may withdraw approval of a provider contract or provider compensation agreement at any time for cause.

(5) Provider compensation agreements are confidential and not subject to public inspection under RCW 48.02.120(2), or public disclosure under chapter 42.56 RCW, if filed in accordance with the procedures for submitting confidential filings through the system for electronic rate and form filings and the general filing instructions as set forth by the commissioner. In the event the referenced filing fails to comply with the filing instructions setting forth the process to withhold the compensation agreement from public inspection, and the carrier indicates that the compensation agreement is to be withheld from public inspection, the commissioner shall reject the filing and notify the carrier through the system for electronic rate and form filings to amend its filing to comply with the confidentiality filing instructions.

(6) In the event a provider contract or provider compensation agreement is disapproved or withdrawn from use by the commissioner, the carrier has the right to demand and receive a hearing under chapters 48.04 and 34.05 RCW.

(7) Provider contracts filed pursuant to subsection (2) of this section shall identify the network or networks to which the contract applies.

(8) The commissioner may adopt rules to implement this section.

**NEW SECTION. Sec. 31.** Except for section 26 of this act, this act takes effect January 1, 2020.

**NEW SECTION. Sec. 32.** 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. 33.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

On page 1, line 2 of the title, after "services;" strike the remainder of the title and insert "amending RCW 48.43.005, 48.43.093, 41.05.017, 48.43.055, 48.18.200, and 48.43.730; reenacting and amending RCW 18.130.180; adding a new section to chapter 48.30 RCW; adding a new section to chapter 70.41 RCW; adding a new section to chapter 70.230 RCW; adding a new section to chapter 70.42 RCW; adding a new section to chapter 43.371 RCW; adding a new chapter to Title 48 RCW; creating new sections; prescribing penalties; providing an effective date; and providing an expiration date."

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long Term Care to Second Substitute House Bill No. 1065.

The motion by Senator Cleveland carried and the committee striking amendment was adopted by voice vote.

#### MOTION

On motion of Senator Cleveland, the rules were suspended, Second Substitute House Bill No. 1065 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Cleveland, O'Ban and Becker spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1065 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1065 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Excused: Senators McCoy and Wilson, L.

SECOND SUBSTITUTE HOUSE BILL NO. 1065, as amended by the Senate, 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 Liias, the Senate advanced to the seventh order of business.

#### THIRD READING

#### CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Walsh moved that Sergio Hernandez, Senate Gubernatorial Appointment No. 9118, be confirmed as a member of the Walla Walla Community College Board of Trustees.

Senator Walsh spoke in favor of the motion.

#### MOTION

On motion of Senator Bailey, Senator Rivers was excused.

#### APPOINTMENT OF SERGIO HERNANDEZ

The President Pro Tempore declared the question before the Senate to be the confirmation of Sergio Hernandez, Senate Gubernatorial Appointment No. 9118, as a member of the Walla Walla Community College Board of Trustees.

The Secretary called the roll on the confirmation of Sergio Hernandez, Senate Gubernatorial Appointment No. 9118, as a member of the Walla Walla Community College Board of Trustees and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Excused: Senators McCoy, Rivers and Wilson, L.

Sergio Hernandez, Senate Gubernatorial Appointment No. 9118, having received the constitutional majority was declared confirmed as a member of the Walla Walla Community College Board of Trustees.

#### MOTION

On motion of Senator Liias, the Senate reverted to the sixth order of business.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 1219, by Representatives Walen, Springer, Kloba, Goodman, Slatte, Stanford, Fey, Jinkins, Fitzgibbon, Ortiz-Self, Valdez, Lekanoff, Doglio, Frame, Wylie, Tharinger, Gregerson and Macri

Providing cities and counties authority to use real estate excise taxes to support affordable housing and homelessness projects.

The measure was read the second time.

#### MOTION

Senator Fortunato moved that the following amendment no. 557 by Senator Fortunato be adopted:

On page 3, line 13, after "(8)" insert "If a city or county uses funds authorized in this section for the purposes of a project that acquires, rehabilitates, or constructs affordable housing under subsection (5)(c) of this section, that city or county must waive all impact fees associated with that project.

(9)"

Correct any internal references accordingly.

Senator Fortunato spoke in favor of adoption of the amendment.

Senator Kuderer spoke against adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 557 by Senator Fortunato on page 3, line 13 to Engrossed House Bill No. 1219.

The motion by Senator Fortunato did not carry and amendment no. 557 was not adopted by voice vote.

#### MOTION

On motion of Senator Kuderer, the rules were suspended, Engrossed House Bill No. 1219 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kuderer and Zeiger spoke in favor of passage of the



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bill.

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The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed House Bill No. 1219.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1219 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 13; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, Mullet, Nguyen, O'Ban, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Voting nay: Senators Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Holy, Honeyford, King, Padden, Schoesler, Sheldon and Short

Excused: Senators McCoy and Wilson, L.

ENGROSSED HOUSE BILL NO. 1219, 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.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1512, by House Committee on Environment & Energy (originally sponsored by Fey, Steele, Valdez, Ortiz-Self, Fitzgibbon, Klippert, Tarleton, Mead, Pollet, Jinkins, Boehnke, Slatter, DeBolt, Dent, Chapman, Frame, Stanford, Tharinger and Macri)

Concerning the electrification of transportation.

The measure was read the second time.

## MOTION

On motion of Senator Carlyle, the rules were suspended, Substitute House Bill No. 1512 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Carlyle, Hasegawa and Sheldon spoke in favor of passage of the bill.

Senator Ericksen spoke against passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 1512.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1512 and the bill passed the Senate by the following vote: Yeas, 36; Nays, 11; Absent, 0; Excused, 2.

Voting yea: Senators Billig, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Hunt, Keiser, Kuderer, Liias, Lovelett, Mullet, Nguyen, O'Ban, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Sheldon, Short, Takko, Van De Wege, Walsh, Wellman, Wilson, C. and Zeiger

Voting nay: Senators Bailey, Becker, Braun, Ericksen, Fortunato, Honeyford, King, Padden, Schoesler, Wagoner and Warnick

Excused: Senators McCoy and Wilson, L.

SUBSTITUTE HOUSE BILL NO. 1512, 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.

## SECOND READING

SENATE BILL NO. 5549, by Senators Liias, King, Hunt and Braun

Modernizing resident distillery marketing and sales restrictions.

## MOTION

On motion of Senator Liias, Second Substitute Senate Bill No. 5549 was substituted for Senate Bill No. 5549 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Hunt moved that the following amendment no. 420 by Senator Hunt be adopted:

On page 3, beginning on line 32, after "(c)" strike all material through "act." on line 36 and insert "(i) No person under twenty-one years of age may be on the premises of a distillery tasting room, including an off-site tasting room licensed under section 3 of this act, unless they are accompanied by their parent, legal guardian, or another adult who has responsibility for them.

(ii) Every distillery tasting room, including the off-site tasting rooms licensed under section 3 of this act, where alcohol is sampled, sold, or served, must include a designated area where persons under twenty-one years of age are allowed to enter. Such location may be in a separate room or a designated area within the tasting room separated from the remainder of the tasting room space by a forty-two inch tall barrier or such other designation as authorized by the board.

(iii) Except for an event where a private party has secured a private banquet permit, no person under twenty-one years of age may be in an area of a distillery tasting room where alcohol is sold, sampled, or served, including the off-site tasting rooms licensed under section 3 of this act, past 8:00 p.m.

(iv) Persons under twenty-one years of age who are children of owners, operators, or managers of a distillery or an off-site tasting room licensed under section 3 of this act, may be in any area of a distillery, tasting room, or an off-site tasting room licensed under section 3 of this act, provided they must be under the direct supervision of their parent or guardian while on the premises.

On page 6, beginning on line 31, after "(7)" strike all material through "act." on line 36 and insert "(a) No person under twenty-one years of age may be on the premises of a craft distillery tasting room, including an off-site tasting room licensed under section 3 of this act, unless they are accompanied by their parent, legal guardian, or another adult who has responsibility for them.

(b) Every craft distillery tasting room, including the off-site tasting rooms licensed under section 3 of this act, where alcohol is sampled, sold, or served, must include a designated area where persons under twenty-one years of age are allowed to enter. Such location may be in a separate room or a designated area within the tasting room separated from the remainder of the tasting room space by a forty-two inch tall barrier or such other designation as authorized by the board.

(c) Except for an event where a private party has secured a private banquet permit, no person under twenty-one years of age may be in an area of a craft distillery tasting room where alcohol is sold, sampled, or served, including the off-site tasting rooms licensed under section 3 of this act, past 8:00 p.m.

(d) Persons under twenty-one years of age who are children of owners, operators, or managers of a craft distillery or an off-site tasting room licensed under section 3 of this act, may be in any area of a licensed craft distillery, tasting room, or an off-site tasting room licensed under section 3 of this act, provided they must be under the direct supervision of their parent or guardian while on the premises."

Senator Hunt spoke in favor of adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 420 by Senator Hunt on page 3, line 32 to Second Substitute Senate Bill No. 5549.

The motion by Senator Hunt carried and amendment no. 420 was adopted by voice vote.

#### MOTION

Senator Hunt moved that the following amendment no. 519 by Senator Hunt be adopted:

On page 7, line 21, after "66.28.310." insert "Off-site tasting rooms may have a section identified and segregated as federally-bonded spaces for the storage of bulk or packaged spirits. Product of the licensee's production may be bottled or packaged in the space."

Senators Hunt and King spoke in favor of adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 519 by Senator Hunt on page 7, line 21 to Second Substitute Senate Bill No. 5549.

The motion by Senator Hunt carried and amendment no. 519 was adopted by voice vote.

#### MOTION

Senator Randall moved that the following amendment no. 573 by Senator Randall be adopted:

On page 7, after line 28, insert the following:

"(3) The amounts collected from the license fee under this section must be used by the health care authority for the sole purpose of funding substance use disorder treatment services."

Senator Randall spoke in favor of adoption of the amendment.

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Randall and without objection, amendment no. 573 by Senator Randall on page 7, line 28 to Second Substitute Senate Bill No. 5549 was withdrawn.

#### MOTION

On motion of Senator Liias, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5549 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Liias, King and Conway spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5549.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5549 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 3; Absent, 2; Excused, 2.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Cleveland, Conway, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Mullet, O'Ban, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Voting nay: Senators Darneille, Padden and Van De Wege

Absent: Senators Carlyle and Nguyen

Excused: Senators McCoy and Wilson, L.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5549, 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.

Senator Becker announced a meeting of the Republican Caucus immediately upon going at ease.

Senator Becker announced a "On Wednesdays we wear pink" photograph to raise awareness of breast cancer and in solidarity with Senator Linda Wilson.

Senator Saldaña announced a meeting of the Democratic Caucus immediately upon going at ease and after the photograph.

#### MOTION

At 3:02 p.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

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The Senate was called to order at 4:47 p.m. by Vice President Pro Tempore Conway.

#### MOTION

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

#### THIRD READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Hunt moved that Heather Redman, Senate Gubernatorial Appointment No. 9111, be confirmed as a member of the Board of Regents, Washington State University.

Senator Hunt spoke in favor of the motion.

#### APPOINTMENT OF HEATHER REDMAN

The Vice President Pro Tempore declared the question before the Senate to be the confirmation of Heather Redman, Senate Gubernatorial Appointment No. 9111, as a member of the Board

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of the bill was ordered to stand as the title of the act.

The Secretary called the roll on the confirmation of Heather Redman, Senate Gubernatorial Appointment No. 9111, as a member of the Board of Regents, Washington State University and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Wellman, Wilson, C. and Zeiger

Absent: Senator Warnick

Excused: Senators McCoy and Wilson, L.

Heather Redman, Senate Gubernatorial Appointment No. 9111, having received the constitutional majority was declared confirmed as a member of the Board of Regents, Washington State University.

MOTION

On motion of Senator Lias, the Senate reverted to the sixth order of business.

MOTION

On motion of Senator Rivers, Senator Warnick was excused.

SECOND READING

HOUSE BILL NO. 1426, by Representatives Ramos, Orcutt, Mead, Walsh, Slatter, Lovick and Leavitt

Concerning cooperation between conservation districts.

The measure was read the second time.

MOTION

On motion of Senator Takko, the rules were suspended, House Bill No. 1426 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Takko spoke in favor of passage of the bill.

The Vice President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 1426.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1426 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Wellman, Wilson, C. and Zeiger

Excused: Senators McCoy, Warnick and Wilson, L.

HOUSE BILL NO. 1426, having received the constitutional majority, was declared passed. There being no objection, the title

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1360, by House Committee on Transportation (originally sponsored by Irwin and Fey)

Concerning abstracts of driving records.

The measure was read the second time.

MOTION

On motion of Senator Hobbs, the rules were suspended, Substitute House Bill No. 1360 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hobbs and King spoke in favor of passage of the bill.

The Vice President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 1360.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1360 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Wellman, Wilson, C. and Zeiger

Excused: Senators McCoy, Warnick and Wilson, L.

SUBSTITUTE HOUSE BILL NO. 1360, 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.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1034, by House Committee on Commerce & Gaming (originally sponsored by Ryu, Pellicciotti, Goodman, Kirby, Vick, Reeves and Bergquist)

Establishing a soju endorsement to certain restaurant licenses.

The measure was read the second time.

MOTION

On motion of Senator Hobbs, the rules were suspended, Substitute House Bill No. 1034 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The Vice President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 1034.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1034 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Wellman, Wilson, C. and Zeiger

Excused: Senators McCoy, Warnick and Wilson, L.

SUBSTITUTE HOUSE BILL NO. 1034, 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.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1254, by House Committee on Transportation (originally sponsored by Fey, Barkis, Wylie and Tharinger)

Clarifying the authority of unregistered vehicles shipped as marine cargo through public ports to operate on public roadways.

The measure was read the second time.

#### MOTION

On motion of Senator Hobbs, the rules were suspended, Substitute House Bill No. 1254 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hobbs and King spoke in favor of passage of the bill.

The Vice President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 1254.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1254 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Voting nay: Senator Hasegawa

Excused: Senators McCoy and Wilson, L.

SUBSTITUTE HOUSE BILL NO. 1254, 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.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1643, by House Committee on State Government & Tribal Relations (originally sponsored by Doglio, Walsh, Dolan, Irwin, Orwall,

Lovick, Macri, Appleton, Shewmake, Jinkins, Davis, Frame and Leavitt)

Concerning property ownership for participants in the address confidentiality program.

The measure was read the second time.

#### MOTION

On motion of Senator Hunt, the rules were suspended, Engrossed Substitute House Bill No. 1643 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hunt and Zeiger spoke in favor of passage of the bill.

The Vice President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1643.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1643 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Excused: Senators McCoy and Wilson, L.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1643, 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.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1197, by House Committee on Transportation (originally sponsored by Riccelli, Irwin, Lovick, Barkis, Reeves, Blake, Ortiz-Self, Ormsby, Valdez, Bergquist, Mead, Fey, Volz, Chapman, Pellicciotti, Kilduff, Dolan, Sells, Maycumber, Shea, Griffey, Leavitt and Stanford)

Concerning gold star license plates.

The measure was read the second time.

#### MOTION

Senator Billig moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.18.245 and 2017 c 24 s 1 are each amended to read as follows:

(1) A registered owner who is an eligible family member of a member of the United States armed forces who died while in service to his or her country, or as a result of his or her service, may apply to the department for special gold star license plates for use on a motor vehicle. The registered owner must:

(a) Be a resident of this state;  
 (b) Provide proof to the satisfaction of the department that the registered owner is an eligible family member, which includes:

- (i) A widow;
- (ii) A widower;
- (iii) A biological parent;
- (iv) An adoptive parent;
- (v) A stepparent;
- (vi) An adult in loco parentis or foster parent;
- (vii) A biological child;
- (viii) An adopted child; or
- (ix) A sibling;

(c) Provide certification from the Washington state department of veterans affairs that the registered owner qualifies for the special license plate under this section; and

(d) Be recorded as the registered owner of the motor vehicle on which the gold star license plates will be displayed(~~(-and~~

~~(e) Except as provided in subsection (2) of this section, pay all fees and taxes required by law for registering the motor vehicle)).~~

~~(2)((a) In addition to the license plate fee exemption in subsection (3)(b) of this section, the widow or widower recipient of a gold star license plate under this section is also exempt from annual vehicle registration fees for one personal use motor vehicle.~~

~~(b))~~ In lieu of applying for a gold star license plate under this section, an eligible widow or widower under subsection (1)(b) of this section may apply for a standard issue license plate or any qualifying special license plate for one personal use motor vehicle and be exempt from ~~((both))~~ payment of annual vehicle registration fees, motor vehicle excise taxes, and license plate fees for that vehicle.

(3)(a) For a widow, a widower, a biological parent, an adoptive parent, a stepparent, or an adult in loco parentis or foster parent applicant, a gold star license plate((s)) must be issued:

~~((a))~~ (i) Only for motor vehicles owned by qualifying applicants; and

~~((b))~~ (ii) Without payment of any vehicle license fees, license plate fees, and motor vehicle excise taxes for one motor vehicle. For other motor vehicles, a qualified widow, a widower, a biological parent, an adoptive parent, a stepparent, or an adult in loco parentis or foster parent applicant may purchase gold star license plates without payment of any license plate fees, but the applicant must pay all other fees and taxes required by law for registering the motor vehicle.

(b) For a biological child, an adopted child, or a sibling applicant, a gold star license plate must be issued:

(i) Only for motor vehicles owned by qualifying applicants; and

(ii) Without payment of any license plate fees but the applicant must pay all other fees and taxes required by law for registering the motor vehicle.

(4) Gold star license plates must be replaced, free of charge, if the license plates become lost, stolen, damaged, defaced, or destroyed.

(5) Gold star license plates may be transferred from one motor vehicle to another motor vehicle owned by the eligible family member, as described in subsection (1) of this section, upon application to the department, county auditor or other agent, or subagent appointed by the director."

On page 1, line 1 of the title, after "plates;" strike the remainder of the title and insert "and amending RCW 46.18.245."

The Vice President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to Substitute

House Bill No. 1197.

The motion by Senator Billig carried and the committee striking amendment was adopted by voice vote.

MOTION

On motion of Senator Billig, the rules were suspended, Substitute House Bill No. 1197 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Billig, King and Honeyford spoke in favor of passage of the bill.

The Vice President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 1197 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1197 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Excused: Senators McCoy and Wilson, L.

SUBSTITUTE HOUSE BILL NO. 1197, as amended by the Senate 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.

SECOND READING

HOUSE BILL NO. 1673, by Representatives Steele, Eslick, Goehner and Riccelli

Exempting information relating to the regulation of explosives from public disclosure.

The measure was read the second time.

MOTION

On motion of Senator Zeiger, the rules were suspended, House Bill No. 1673 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Zeiger and Hunt spoke in favor of passage of the bill.

The Vice President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 1673.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1673 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford,

Hunt, Keiser, King, Kuderer, Lias, Lovelett, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Voting nay: Senator Salomon

Excused: Senators McCoy and Wilson, L.

HOUSE BILL NO. 1673, 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.

The President Pro Tempore assumed the chair, Senator Keiser presiding.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1440, by House Committee on Civil Rights & Judiciary (originally sponsored by Robinson, Macri, Riccelli, Gregerson, Doglio, Tarleton, Kloba, Frame, Jinkins, Morgan, Ortiz-Self and Ormsby)

Providing longer notice of rent increases.

The measure was read the second time.

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Short and without objection, amendment no. 574 by Senator Short on page 2, line 2 to Engrossed Substitute House Bill No. 1440 was withdrawn.

#### MOTION

Senator Short moved that the following amendment no. 575 by Senator Short be adopted:

On page 2, line 3, after "tenant" insert "living solely on a fixed income including those receiving supplemental security income and social security disability insurance, earning below sixty percent area median income, or is sixty years of age or older"

On page 2, line 5, after "agreement." insert "A landlord shall provide a minimum of thirty days prior written notice of an increase in the amount of rent to each affected tenant in all other circumstances."

Senator Short spoke in favor of adoption of the amendment.

Senator Mullet spoke against adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 575 by Senator Short on page 2, line 3 to Engrossed Substitute House Bill No. 1440.

The motion by Senator Short did not carry and amendment no. 575 was not adopted by voice vote.

#### MOTION

Senator Short moved that the following amendment no. 576 by Senator Short be adopted:

On page 2, line 5, after "agreement" insert "unless mutually consented to by all parties of the rental agreement"

Senators Short and Padden spoke in favor of adoption of the amendment.

Senator Mullet spoke against adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 576 by Senator Short

on page 2, line 5 to Engrossed Substitute House Bill No. 1440.

The motion by Senator Short did not carry and amendment no. 576 was not adopted by voice vote.

#### MOTION

Senator Short moved that the following amendment no. 578 by Senator Short be adopted:

On page 2, line 5, after "agreement" insert "if it is greater than three percent of the amount agreed to in the rental agreement"

Senator Short spoke in favor of adoption of the amendment.

Senator Mullet spoke against adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 578 by Senator Short on page 2, line 5 to Engrossed Substitute House Bill No. 1440.

The motion by Senator Short did not carry and amendment no. 578 was not adopted by voice vote.

#### MOTION

On motion of Senator Mullet, the rules were suspended, Engrossed Substitute House Bill No. 1440 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1440.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1440 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 18; Absent, 0; Excused, 2.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frocht, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Lias, Lovelett, Mullet, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Walsh, Wellman, Wilson, C. and Zeiger

Voting nay: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Holy, Honeyford, King, O'Ban, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner and Warnick

Excused: Senators McCoy and Wilson, L.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1440, 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.

#### SECOND READING

HOUSE BILL NO. 1672, by Representatives Steele, Kirby, Rude, Jenkin, Eslick and Doglio

Allowing recorking wine at wineries and tasting rooms.

The measure was read the second time.

#### MOTION

Senator Conway moved that the following committee striking amendment by the Committee on Labor & Commerce be adopted:

Strike everything after the enacting clause and insert the

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following:

**"Sec. 1.** RCW 66.24.170 and 2017 c 238 s 1 are each amended to read as follows:

(1) There is a license for domestic wineries; fee to be computed only on the liters manufactured: Less than two hundred fifty thousand liters per year, one hundred dollars per year; and two hundred fifty thousand liters or more per year, four hundred dollars per year.

(2) The license allows for the manufacture of wine in Washington state from grapes or other agricultural products.

(3) Any domestic winery licensed under this section may also act as a retailer of wine of its own production. Any domestic winery licensed under this section may act as a distributor of its own production. Notwithstanding any language in this title to the contrary, a domestic winery may use a common carrier to deliver up to one hundred cases of its own production, in the aggregate, per month to licensed Washington retailers. A domestic winery may not arrange for any such common carrier shipments to licensed retailers of wine not of its own production. Except as provided in this section, any winery operating as a distributor and/or retailer under this subsection must comply with the applicable laws and rules relating to distributors and/or retailers, except that a winery operating as a distributor may maintain a warehouse off the premises of the winery for the distribution of wine of its own production provided that: (a) The warehouse has been approved by the board under RCW 66.24.010; and (b) the number of warehouses off the premises of the winery does not exceed one.

(4)(a) A domestic winery licensed under this section, at locations separate from any of its production or manufacturing sites, may serve samples of its own products, with or without charge, may sell wine of its own production at retail, and may sell for off-premises consumption wines of its own production in kegs or sanitary containers meeting the applicable requirements of federal law brought to the premises by the purchaser or furnished by the licensee and filled at the tap at the time of sale, provided that: ~~((a))~~ (i) Each additional location has been approved by the board under RCW 66.24.010; ~~((b))~~ (ii) the total number of additional locations does not exceed four; ~~((c))~~ (iii) a winery may not act as a distributor at any such additional location; and ~~((d))~~ (iv) any person selling or serving wine at an additional location for on-premises consumption must obtain a class 12 or class 13 alcohol server permit. Each additional location is deemed to be part of the winery license for the purpose of this title. At additional locations operated by multiple wineries under this section, if the board cannot connect a violation of RCW 66.44.200 or 66.44.270 to a single licensee, the board may hold all licensees operating the additional location jointly liable. Nothing in this subsection may be construed to prevent a domestic winery from holding multiple domestic winery licenses.

(b) A customer of a domestic winery may remove from the premises of the domestic winery or from a tasting room location approved under (a) of this subsection, recorked or recapped in its original container, any portion of wine purchased for on-premises consumption.

(5)(a) A domestic winery licensed under this section may apply to the board for an endorsement to sell wine of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars. An endorsement issued pursuant to this subsection does not count toward the four additional retail locations limit specified in this section.

(b) For each month during which a domestic winery will sell wine at a qualifying farmers market, the winery must provide the board or its designee a list of the dates, times, and locations at

which bottled wine may be offered for sale. This list must be received by the board before the winery may offer wine for sale at a qualifying farmers market.

(c) The wine sold at qualifying farmers markets must be made entirely from grapes grown in a recognized Washington appellation or from other agricultural products grown in this state.

(d) Each approved location in a qualifying farmers market is deemed to be part of the winery license for the purpose of this title. The approved locations under an endorsement granted under this subsection include tasting or sampling privileges subject to the conditions pursuant to RCW 66.24.175. The winery may not store wine at a farmers market beyond the hours that the winery offers bottled wine for sale. The winery may not act as a distributor from a farmers market location.

(e) Before a winery may sell bottled wine at a qualifying farmers market, the farmers market must apply to the board for authorization for any winery with an endorsement approved under this subsection to sell bottled wine at retail at the farmers market. This application shall include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved winery may sell bottled wine; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled wine may be sold. Before authorizing a qualifying farmers market to allow an approved winery to sell bottled wine at retail at its farmers market location, the board must notify the persons or entities of such application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection (5)(e) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(f) The board may adopt rules establishing the application and approval process under this section and such additional rules as may be necessary to implement this section.

(g) For the purposes of this subsection:

(i) "Qualifying farmers market" means an entity that sponsors a regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in this state directly to the consumer under conditions that meet the following minimum requirements:

(A) There are at least five participating vendors who are farmers selling their own agricultural products;

(B) The total combined gross annual sales of vendors who are farmers exceeds the total combined gross annual sales of vendors who are processors or resellers. However, if a farmers market does not satisfy this subsection (5)(g)(i)(B), a farmers market is still considered a "qualifying farmers market" if the total combined gross annual sales of farmers and processors at the farmers market is one million dollars or more;

(C) The total combined gross annual sales of vendors who are farmers, processors, or resellers exceeds the total combined gross annual sales of vendors who are not farmers, processors, or resellers;

(D) The sale of imported items and secondhand items by any vendor is prohibited; and

(E) No vendor is a franchisee.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural

products from a farmer and resells the products directly to the consumer.

(6) Wine produced in Washington state by a domestic winery licensee may be shipped out-of-state for the purpose of making it into sparkling wine and then returned to such licensee for resale. Such wine is deemed wine manufactured in the state of Washington for the purposes of RCW 66.24.206, and shall not require a special license.

(7) During an event held by a nonprofit holding a special occasion license issued under RCW 66.24.380, a domestic winery licensed under this section may take orders, either in writing or electronically, and accept payment for wines of its own production under the following conditions:

(a) Wine produced by the domestic winery may be served for on-premises consumption by the special occasion licensee;

(b) The domestic winery delivers wine to the consumer on a date after the conclusion of the special occasion event;

(c) The domestic winery delivers wine to the consumer at a location different from the location at which the special occasion event is held;

(d) The domestic winery complies with all requirements in chapter 66.20 RCW for direct sale of wine to consumers;

(e) The wine is not sold for resale; and

(f) The domestic winery is entitled to all proceeds from the sale and delivery of its wine to a consumer after the conclusion of the special occasion event, but may enter into an agreement to share a portion of the proceeds of these sales with the special occasion licensee licensed under RCW 66.24.380.

**Sec. 2.** RCW 66.24.320 and 2007 c 370 s 9 are each amended to read as follows:

There shall be a beer and/or wine restaurant license to sell beer, including strong beer, or wine, or both, at retail, for consumption on the premises. A patron of the licensee may remove from the premises, recorked or recapped in its original container, any portion of wine or sake that was purchased for consumption with a meal.

(1) The annual fee shall be two hundred dollars for the beer license, two hundred dollars for the wine license, or four hundred dollars for a combination beer and wine license.

(2)(a) The board may issue a caterer's endorsement to this license to allow the licensee to remove from the liquor stocks at the licensed premises, only those types of liquor that are authorized under the on-premises license privileges for sale and service at event locations at a specified date and, except as provided in subsection (3) of this section, place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived. Cost of the endorsement is three hundred fifty dollars.

(b) The holder of this license with a catering endorsement shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(c) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on the premises of another not licensed by the board so long as there is a written agreement between the licensee and the other party to provide for ongoing catering services, the agreement contains no exclusivity clauses regarding the alcoholic beverages to be

served, and the agreement is filed with the board.

(d) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on other premises operated by the licensee so long as the other premises are owned or controlled by a leasehold interest by that licensee. A duplicate license may be issued for each additional premises. A license fee of twenty dollars shall be required for such duplicate licenses.

(3) Licensees under this section that hold a caterer's endorsement are allowed to use this endorsement on a domestic winery premises or on the premises of a passenger vessel and may store liquor at such premises under conditions established by the board under the following conditions:

(a) Agreements between the domestic winery or the passenger vessel, as the case may be, and the retail licensee shall be in writing, contain no exclusivity clauses regarding the alcoholic beverages to be served, and be filed with the board; and

(b) The domestic winery or passenger vessel, as the case may be, and the retail licensee shall be separately contracted and compensated by the persons sponsoring the event for their respective services.

(4) The holder of this license or its manager may furnish beer or wine to the licensee's employees free of charge as may be required for use in connection with instruction on beer and wine. The instruction may include the history, nature, values, and characteristics of beer or wine, the use of wine lists, and the methods of presenting, serving, storing, and handling beer or wine. The beer and/or wine licensee must use the beer or wine it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the beer and/or wine licensee.

(5) If the license is issued to a person who contracts with the Washington state ferry system to provide food and alcohol service on a designated ferry route, the license shall cover any vessel assigned to the designated route. A separate license is required for each designated ferry route.

**Sec. 3.** RCW 66.24.400 and 2011 c 119 s 401 are each amended to read as follows:

(1) There shall be a retailer's license, to be known and designated as a spirits, beer, and wine restaurant license, to sell spirituous liquor by the individual glass, beer, and wine, at retail, for consumption on the premises, including mixed drinks and cocktails compounded or mixed on the premises only. A club licensed under chapter 70.62 RCW with overnight sleeping accommodations, that is licensed under this section may sell liquor by the bottle to registered guests of the club for consumption in guest rooms, hospitality rooms, or at banquets in the club. A patron of a bona fide restaurant or club licensed under this section may remove from the premises recorked or recapped in its original container any portion of wine or sake which was purchased for consumption with a meal, and registered guests who have purchased liquor from the club by the bottle may remove from the premises any unused portion of such liquor in its original container. Such license may be issued only to bona fide restaurants and clubs, and to dining, club and buffet cars on passenger trains, and to dining places on passenger boats and airplanes, and to dining places at civic centers with facilities for sports, entertainment, and conventions, and to such other establishments operated and maintained primarily for the benefit of tourists, vacationers and travelers as the board shall determine are qualified to have, and in the discretion of the board should have, a spirits, beer, and wine restaurant license under the provisions and limitations of this title.

(2) The board may issue an endorsement to the spirits, beer, and wine restaurant license that allows the holder of a spirits, beer,



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and wine restaurant license to sell bottled wine for off-premises consumption. Spirits and beer may not be sold for off-premises consumption under this section except as provided in subsection (4) of this section. The annual fee for the endorsement under this subsection is one hundred twenty dollars.

(3) The holder of a spirits, beer, and wine license or its manager may furnish beer, wine, or spirituous liquor to the licensee's employees free of charge as may be required for use in connection with instruction on beer, wine, or spirituous liquor. The instruction may include the history, nature, values, and characteristics of beer, wine, or spirituous liquor, the use of wine lists, and the methods of presenting, serving, storing, and handling beer, wine, and spirituous liquor. The spirits, beer, and wine restaurant licensee must use the beer, wine, or spirituous liquor it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the spirits, beer, and wine restaurant licensee.

(4) The board may issue an endorsement to the spirits, beer, and wine restaurant license that allows the holder of a spirits, beer, and wine restaurant license to sell for off-premises consumption malt liquor in kegs or other containers that are capable of holding four gallons or more of liquid and are registered in accordance with RCW 66.28.200. Beer may also be sold under the endorsement to a purchaser in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the retailer at the time of sale. The annual fee for the endorsement under this subsection is one hundred twenty dollars."

On page 1, line 1 of the title, after "wine" strike the remainder of the title and insert "and sake; and amending RCW 66.24.170, 66.24.320, and 66.24.400."

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Labor & Commerce to House Bill No. 1672.

The motion by Senator Conway carried and the committee striking amendment was adopted by voice vote.

#### MOTION

On motion of Senator Conway, the rules were suspended, House Bill No. 1672, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Conway, King and Padden spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 1672, as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1672, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Excused: Senators McCoy and Wilson, L.

HOUSE BILL NO. 1672, as amended by the Senate, 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.

#### SECOND READING

HOUSE BILL NO. 1568, by Representatives Chapman, Dent, Blake and Walsh

Concerning port district worker development and occupational training programs.

The measure was read the second time.

#### MOTION

On motion of Senator Palumbo, the rules were suspended, House Bill No. 1568 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Palumbo spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 1568.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1568 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Excused: Senators McCoy and Wilson, L.

HOUSE BILL NO. 1568, 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.

#### SECOND READING

HOUSE BILL NO. 1137, by Representatives Leavitt, Klippert, Kilduff, Boehnke, Gildon, Callan, Reeves, Dolan, Barkis, Appleton, Goodman, Young, Riccelli, Bergquist and Stanford

Concerning national guard pay in state active service for wildland fire response duty.

The measure was read the second time.

#### MOTION

On motion of Senator Hunt, the rules were suspended, House Bill No. 1137 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hunt, Hobbs and Zeiger spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 1137.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1137 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting ye: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Excused: Senators McCoy and Wilson, L.

HOUSE BILL NO. 1137, 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.

#### SECOND READING

HOUSE BILL NO. 1561, by Representatives Dent, Senn, Appleton, Doglio, Tharinger, Slatter, Ormsby, Frame and Leavitt

Ensuring participation on the oversight board for children, youth, and families by current or former foster youth, individuals with current or previous experience in the juvenile justice system, a physician with experience working with children or youth, and individuals residing east of the Cascade mountain range.

The measure was read the second time.

#### MOTION

Senator Darneille moved that the following committee striking amendment by the Committee on Human Services, Reentry & Rehabilitation be adopted:

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 43.216.015 and 2018 c 58 s 76 and 2018 c 51 s 1 are each reenacted and amended to read as follows:

(1)(a) The department of children, youth, and families is created as an executive branch agency. The department is vested with all powers and duties transferred to it under chapter 6, Laws of 2017 3rd sp. sess. and such other powers and duties as may be authorized by law. The vision for the department is that Washington state's children and youth grow up safe and healthy—thriving physically, emotionally, and academically, nurtured by family and community.

(b) The department, in partnership with state and local agencies, tribes, and communities, shall protect children and youth from harm and promote healthy development with effective, high quality prevention, intervention, and early education services delivered in an equitable manner. An important role for the department shall be to provide preventative services to help secure and preserve families in crisis. The department shall partner with the federally recognized Indian tribes to develop effective services for youth and families while respecting the sovereignty of those tribes and the government-to-government relationship. Nothing in chapter 6, Laws of 2017 3rd sp. sess. alters the duties, requirements, and policies of the federal

Indian child welfare act, 25 U.S.C. Secs. 1901 through 1963, as amended, or the Indian child welfare act, chapter 13.38 RCW.

(2) Beginning July 1, 2018, the department must develop definitions for, work plans to address, and metrics to measure the outcomes for children, youth, and families served by the department and must work with state agencies to ensure services for children, youth, and families are science-based, outcome-driven, data-informed, and collaborative.

(3)(a) Beginning July 1, 2018, the department must establish short and long-term population level outcome measure goals, including metrics regarding reducing disparities by family income, race, and ethnicity in each outcome.

(b) The department must report to the legislature on outcome measures, actions taken, progress toward these goals, and plans for the future year, no less than annually, beginning December 1, 2018.

(c) The outcome measures must include, but are not limited to:

(i) Improving child development and school readiness through voluntary, high quality early learning opportunities as measured by: (A) Increasing the number and proportion of children kindergarten-ready as measured by the Washington kindergarten inventory of developing skills (WAKids) assessment including mathematics; (B) increasing the proportion of children in early learning programs that have achieved the level 3 or higher early achievers quality standard; and (C) increasing the available supply of licensed child care in both child care centers and family homes, including providers not receiving state subsidy;

(ii) Preventing child abuse and neglect;

(iii) Improving child and youth safety, permanency, and well-being as measured by: (A) Reducing the number of children entering out-of-home care; (B) reducing a child's length of stay in out-of-home care; (C) reducing maltreatment of youth while in out-of-home care; (D) licensing more foster homes than there are children in foster care; (E) reducing the number of children that reenter out-of-home care within twelve months; (F) increasing the stability of placements for children in out-of-home care; and (G) developing strategies to demonstrate to foster families that their service and involvement is highly valued by the department, as demonstrated by the development of strategies to consult with foster families regarding future placement of a foster child currently placed with a foster family;

(iv) Improving reconciliation of children and youth with their families as measured by: (A) Increasing family reunification; and (B) increasing the number of youth who are reunified with their family of origin;

(v) In collaboration with county juvenile justice programs, improving adolescent outcomes including reducing multisystem involvement and homelessness; and increasing school graduation rates and successful transitions to adulthood for youth involved in the child welfare and juvenile justice systems;

(vi) Reducing future demand for mental health and substance use disorder treatment for youth involved in the child welfare and juvenile justice systems;

(vii) In collaboration with county juvenile justice programs, reducing criminal justice involvement and recidivism as measured by: (A) An increase in the number of youth who successfully complete the terms of diversion or alternative sentencing options; (B) a decrease in the number of youth who commit subsequent crimes; and (C) eliminating the discharge of youth from institutional settings into homelessness; and

(viii) Reducing racial and ethnic disproportionality and disparities in system involvement and across child and youth outcomes in collaboration with other state agencies.

(4) Beginning July 1, 2018, the department must:

(a) Lead ongoing collaborative work to minimize or eliminate systemic barriers to effective, integrated services in collaboration

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with state agencies serving children, youth, and families;

(b) Identify necessary improvements and updates to statutes relevant to their responsibilities and proposing legislative changes to the governor no less than biennially;

(c) Help create a data-focused environment in which there are aligned outcomes and shared accountability for achieving those outcomes, with shared, real-time data that is accessible to authorized persons interacting with the family, child, or youth to identify what is needed and which services would be effective;

(d) Lead the provision of state services to adolescents, focusing on key transition points for youth, including exiting foster care and institutions, and coordinating with the office of homeless youth prevention and protection programs to address the unique needs of homeless youth; and

(e) Create and annually update a list of the rights and responsibilities of foster parents in partnership with foster parent representatives. The list of foster parent rights and responsibilities must be posted on the department's web site, provided to individuals participating in a foster parent orientation before licensure, provided to foster parents in writing at the time of licensure, and provided to foster parents applying for license renewal.

(5) The department is accountable to the public. To ensure transparency, beginning December 30, 2018, agency performance data for the services provided by the department, including outcome data for contracted services, must be available to the public, consistent with confidentiality laws, federal protections, and individual rights to privacy. Publicly available data must include budget and funding decisions, performance-based contracting data, including data for contracted services, and performance data on metrics identified in this section. The ~~((oversight)) board ((for children, youth, and families))~~ must work with the secretary and director to develop the most effective and cost-efficient ways to make department data available to the public, including making this data readily available on the department's web site.

(6) The department shall ensure that all new and renewed contracts for services are performance-based.

~~(7) ((As used in this section, "performance-based contract" means results oriented contracting that focuses on the quality of outcomes that tie at least a portion of the contractor's payment, contract extensions, or contract renewals to the achievement of specific measurable performance standards and requirements.~~

~~(8))~~ The department must execute all new and renewed contracts for services in accordance with this section and consistent with RCW 74.13B.020. When contracted services are managed through a network administrator or other third party, the department must execute data-sharing agreements with the entities managing the contracts to track provider performance measures. Contracts with network administrators or other third parties must provide the contract administrator the ability to shift resources from one provider to another, to evaluate individual provider performance, to add or delete services in consultation with the department, and to reinvest savings from increased efficiencies into new or improved services in their catchment area. Whenever possible, contractor performance data must be made available to the public, consistent with confidentiality laws and individual rights to privacy.

~~((9))~~ ~~(8)~~(a) The ~~((oversight)) board ((for children, youth, and families))~~ shall begin its work and call the first meeting of the board on or after July 1, 2018. The ~~((oversight)) board~~ shall immediately assume the duties of the legislative children's oversight committee, as provided for in RCW 74.13.570 and assume the full functions of the board as provided for in this section by July 1, 2019. The office of innovation, alignment, and

accountability shall provide quarterly updates regarding the implementation of the department ~~((of children, youth, and families))~~ to the board between July 1, 2018, and July 1, 2019.

~~(b)~~ The ~~office of the family and children's~~ ~~ombuds~~ shall establish the ~~((oversight)) board ((for children, youth, and families))~~. The board is authorized for the purpose of monitoring and ensuring that the department ~~((of children, youth, and families))~~ achieves the stated outcomes of chapter 6, Laws of 2017 3rd sp. sess., and complies with administrative acts, relevant statutes, rules, and policies pertaining to early learning, juvenile rehabilitation, juvenile justice, and children and family services.

~~((10))~~ ~~(9)~~(a) The ~~((oversight)) board ((for children, youth, and families))~~ shall consist of the following members:

~~(i)~~ Two senators and two representatives from the legislature with one member from each major caucus~~((?));~~

~~(ii)~~ One nonvoting representative from the governor's office~~((?));~~

~~(iii)~~ One subject matter expert in early learning~~((?));~~

~~(iv)~~ One subject matter expert in child welfare~~((?));~~

~~(v)~~ One subject matter expert in juvenile rehabilitation and justice~~((?));~~

~~(vi)~~ One subject matter expert in reducing disparities in child outcomes by family income and race and ethnicity~~((?));~~

~~(vii)~~ One tribal representative from ((the)) west of the crest of the Cascade mountains~~((?));~~

~~(viii)~~ One tribal representative from ((the)) east of the crest of the Cascade mountains~~((?));~~

~~(ix)~~ One current or former foster parent representative~~((?));~~

~~(x)~~ One representative of an organization that advocates for the best interest of the child~~((?));~~

~~(xi)~~ One parent stakeholder group representative~~((?));~~

~~(xii)~~ One law enforcement representative~~((?));~~

~~(xiii)~~ One child welfare caseworker representative~~((?));~~

~~(xiv)~~ One early childhood learning program implementation practitioner~~((?));~~

~~(xv)~~ One current or former foster youth under age twenty-five;

~~(xvi)~~ One individual under age twenty-five with current or previous experience with the juvenile justice system;

~~(xvii)~~ One physician with experience working with children or youth; and

~~(xviii)~~ One judicial representative presiding over child welfare court proceedings or other children's matters.

(b) The senate members of the board shall be appointed by the leaders of the two major caucuses of the senate. The house of representatives members of the board shall be appointed by the leaders of the two major caucuses of the house of representatives. Members shall be appointed before the close of each regular session of the legislature during an odd-numbered year.

(c) The remaining board members shall be nominated by the governor, subject to the approval of the appointed legislators by majority vote, and serve four-year terms. When nominating and approving members after the effective date of this section, the governor and appointed legislators must ensure that at least five of the board members reside east of the crest of the Cascade mountains.

~~((11))~~ ~~(10)~~ The ~~((oversight)) board ((for children, youth, and families))~~ has the following powers, which may be exercised by majority vote of the board:

(a) To receive reports of the office of the family and children's ~~ombuds;~~

(b) To obtain access to all relevant records in the possession of the office of the family and children's ~~ombuds~~, except as prohibited by law;

(c) To select its officers and adoption of rules for orderly procedure;

(d) To request investigations by the office of the family and children's ombuds of administrative acts;

(e) To request and receive information, outcome data, documents, materials, and records from the department (~~(of children, youth, and families)~~) relating to children and family welfare, juvenile rehabilitation, juvenile justice, and early learning;

(f) To determine whether the department (~~(of children, youth, and families)~~) is achieving the performance measures;

(g) If final review is requested by a licensee, to review whether department (~~(of children, youth, and families)~~) licensors appropriately and consistently applied agency rules in child care facility licensing compliance agreements as defined in RCW 43.216.395 that do not involve a violation of health and safety standards as defined in RCW 43.216.395 in cases that have already been reviewed by the internal review process described in RCW 43.216.395 with the authority to overturn, change, or uphold such decisions;

(h) To conduct annual reviews of a sample of department (~~(of children, youth, and families)~~) contracts for services from a variety of program and service areas to ensure that those contracts are performance-based and to assess the measures included in each contract; and

(i) Upon receipt of records or data from the office of the family and children's ombuds or the department (~~(of children, youth, and families)~~), the (~~(oversight)~~) board (~~(for children, youth, and families)~~) is subject to the same confidentiality restrictions as the office of the family and children's ombuds is under RCW 43.06A.050. The provisions of RCW 43.06A.060 also apply to the (~~(oversight)~~) board (~~(for children, youth, and families)~~).

~~((12))~~ (11) The (~~(oversight)~~) board (~~(for children, youth, and families)~~) has general oversight over the performance and policies of the department and shall provide advice and input to the department and the governor.

~~((13))~~ (12) The (~~(oversight)~~) board (~~(for children, youth, and families)~~) must no less than twice per year convene stakeholder meetings to allow feedback to the board regarding contracting with the department (~~(of children, youth, and families)~~), departmental use of local, state, private, and federal funds, and other matters as relating to carrying out the duties of the department.

~~((14))~~ (13) The (~~(oversight)~~) board (~~(for children, youth, and families)~~) shall review existing surveys of providers, customers, parent groups, and external services to assess whether the department (~~(of children, youth, and families)~~) is effectively delivering services, and shall conduct additional surveys as needed to assess whether the department is effectively delivering services.

~~((15))~~ (14) The (~~(oversight)~~) board (~~(for children, youth, and families)~~) is subject to the open public meetings act, chapter 42.30 RCW, except to the extent disclosure of records or information is otherwise confidential under state or federal law.

~~((16))~~ (15) Records or information received by the (~~(oversight)~~) board (~~(for children, youth, and families)~~) is confidential to the extent permitted by state or federal law. This subsection does not create an exception for records covered by RCW 13.50.100.

~~((17))~~ (16) The (~~(oversight)~~) board (~~(for children, youth, and families)~~) members shall receive no compensation for their service on the board, but shall be reimbursed for travel expenses incurred while (~~(attending meetings)~~) conducting business of the board when authorized by the board and within resources allocated for this purpose, except appointed legislators who shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

~~((18))~~ (17) The (~~(oversight)~~) board (~~(for children, youth, and~~

~~families)~~) shall select, by majority vote, an executive director who shall be the chief administrative officer of the board and shall be responsible for carrying out the policies adopted by the board. The executive director is exempt from the provisions of the state civil service law, chapter 41.06 RCW, and shall serve at the pleasure of the board established in this section.

~~((19))~~ (18) The (~~(oversight)~~) board (~~(for children, youth, and families)~~) shall maintain a staff not to exceed one full-time equivalent employee. The board-selected executive director of the board is responsible for coordinating staff appointments.

~~((20))~~ (19) The (~~(oversight)~~) board (~~(for children, youth, and families)~~) shall issue an annual report to the governor and legislature by December 1st of each year with an initial report delivered by December 1, 2019. The report must review the (~~(department of children, youth, and families)~~) department's progress towards meeting stated performance measures and desired performance outcomes, and must also include a review of the department's strategic plan, policies, and rules.

~~((21) As used in this section, "department" means the department of children, youth, and families,)~~ (20) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Board" means the oversight board for children, youth, and families established in subsection (8) of this section.

(b) "Director" means the director of the office of innovation, alignment, and accountability(~~(, and "secretary" means the secretary of the department)~~).

(c) "Performance-based contract" means results-oriented contracting that focuses on the quality or outcomes that tie at least a portion of the contractor's payment, contract extensions, or contract renewals to the achievement of specific measurable performance standards and requirements.

~~((22) The governor must appoint the secretary of the department within thirty days of July 6, 2017-))"~~

On page 1, line 5 of the title, after "range;" strike the remainder of the title and insert "and reenacting and amending RCW 43.216.015."

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services, Reentry & Rehabilitation to House Bill No. 1561.

The motion by Senator Darneille carried and the committee striking amendment was adopted by voice vote.

#### MOTION

On motion of Senator Darneille, the rules were suspended, House Bill No. 1561 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Darneille and Walsh spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 1561.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1561 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Mullet, Nguyen,

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O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Excused: Senators McCoy and Wilson, L.

HOUSE BILL NO. 1561, as amended by the Senate, 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.

#### SECOND READING

HOUSE BILL NO. 1490, by Representatives Ormsby, Sells, Tarleton, Doglio and Pollet

Amending the application of the occupational disease presumption for cancer for Hanford site workers.

The measure was read the second time.

#### MOTION

On motion of Senator Conway, the rules were suspended, House Bill No. 1490 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Conway and King spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 1490.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1490 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 8; Absent, 0; Excused, 2.

Voting yea: Senators Billig, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Mullet, Nguyen, O'Ban, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Sheldon, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Voting nay: Senators Bailey, Becker, Braun, Honeyford, Padden, Schoesler, Short and Wagoner

Excused: Senators McCoy and Wilson, L.

HOUSE BILL NO. 1490, 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.

#### PERSONAL PRIVILEGE

Senator Fortunato: "First, Madam President, I would like to apologize to yourself and to Senator Conway and to the body for my indiscretion. Thank you."

President Pro Tempore: "It's accepted. Thank you very much, Senator Fortunato."

EDITOR'S NOTE: Reed's Parliamentary Rules, Chap. XIII, §212, prohibits members who are not speaking from passing between the member speaking and the presiding officer.

#### SECOND READING

HOUSE BILL NO. 1803, by Representatives Orcutt and Santos

Increasing the number of school districts that may be authorized to reduce the minimum number of required school days in a school year.

The measure was read the second time.

#### MOTION

Senator Wellman moved that the following committee striking amendment by the Committee on Early Learning & K-12 Education be not adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28A.150.222 and 2018 c 177 s 503 are each amended to read as follows:

(1) In addition to waivers authorized under RCW 28A.300.750, the superintendent of public instruction, in accordance with the criteria in subsection (2) of this section and criteria adopted by the state board of education under subsection (3) of this section, may grant waivers of the requirement for a one hundred eighty-day school year under RCW 28A.150.220 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 minimum instructional hours may not be waived.

(2) A school district seeking a waiver under this section must submit an application to the superintendent of public instruction 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 superintendent of public instruction may request to assure that the proposed flexible calendar will not adversely affect student learning.

(3) The state board of education shall adopt rules establishing the criteria to evaluate waiver requests under this section. A waiver may be effective for up to three years and may be renewed for subsequent periods of three or fewer years. After each school year in which a waiver has been granted under this section, the superintendent of public instruction must analyze empirical evidence to determine whether the reduction is affecting student learning. If the superintendent of public instruction determines that student learning is adversely affected, the school district must discontinue the flexible calendar as soon as possible but not later than the beginning of the next school year after the superintendent

of public instruction's determination.

(4) The superintendent of public instruction may grant waivers authorized under this section to ~~((five))~~ seven or fewer school districts with student populations of less than five hundred students. Of the ~~((five))~~ seven waivers that may be granted, two must be reserved for districts with student populations of less than one hundred fifty students.

**NEW SECTION. Sec. 2..** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 3 of the title, after "year;" strike the remainder of the title and insert "amending RCW 28A.150.222; and declaring an emergency."

The President Pro Tempore declared the question before the Senate to be to not adopt the committee striking amendment by the Committee on Early Learning & K-12 Education to House Bill No. 1803.

The motion by Senator Wellman carried and the committee striking amendment was not adopted by voice vote.

#### MOTION

Senator Hawkins moved that the following striking amendment no. 543 by Senators Hawkins and Wellman be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28A.150.222 and 2018 c 177 s 503 are each amended to read as follows:

(1) In addition to waivers authorized under RCW 28A.300.750, the superintendent of public instruction, in accordance with the criteria in subsection (2) of this section and criteria adopted by the state board of education under subsection (3) of this section, may grant waivers of the requirement for a one hundred eighty-day school year under RCW 28A.150.220 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 minimum instructional hours may not be waived.

(2) A school district seeking a waiver under this section must submit an application to the superintendent of public instruction 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 superintendent of public instruction may request to assure that the proposed flexible calendar will not adversely affect student learning.

(3) The state board of education shall adopt rules establishing the criteria to evaluate waiver requests under this section. A waiver may be effective for up to three years and may be renewed for subsequent periods of three or fewer years. After each school year in which a waiver has been granted under this section, the superintendent of public instruction must analyze empirical evidence to determine whether the reduction is affecting student learning. If the superintendent of public instruction determines that student learning is adversely affected, the school district must discontinue the flexible calendar as soon as possible but not later than the beginning of the next school year after the superintendent of public instruction's determination.

(4) The superintendent of public instruction may grant waivers authorized under this section to ~~((five))~~ ten or fewer school districts with student populations of less than five hundred students. Of the ~~((five))~~ ten waivers that may be granted, two must be reserved for districts with student populations of less than one hundred fifty students.

**NEW SECTION. Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 3 of the title, after "year;" strike the remainder of the title and insert "amending RCW 28A.150.222; and declaring an emergency."

Senators Hawkins and Wellman spoke in favor of adoption of the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of striking amendment no. 543 by Senators Hawkins and Wellman to House Bill No. 1803.

The motion by Senator Hawkins carried and striking amendment no. 543 was adopted by voice vote.

#### MOTION

On motion of Senator Wellman, the rules were suspended, House Bill No. 1803 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Wellman, Hawkins, King, Mullet and Short spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 1803 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1803 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Erickson, Fortunato, Frockt, Hasegawa, Hawkins, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Voting nay: Senator Hobbs

Excused: Senators McCoy and Wilson, L.

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HOUSE BILL NO. 1803, as amended by the Senate, 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 Wilson, C., Senator Mullet was excused.

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1579, by House Committee on Appropriations (originally sponsored by Fitzgibbon, Peterson, Lekanoff, Doglio, Macri, Stonier, Tharinger, Stanford, Jinkins, Robinson, Pollet, Valdez, Cody, Kloba, Slatter, Frame and Davis)

Implementing recommendations of the southern resident killer whale task force related to increasing chinook abundance.

The measure was read the second time.

#### MOTION

Senator Van De Wege moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that the population of southern resident killer whales has declined in recent years and currently stands at a thirty-year low of seventy-four animals.

(2) The governor convened the southern resident killer whale task force after the 2018 legislative session to study and identify actions that could be taken to help sustain and recover this important species. In the course of its work, the task force found that chinook salmon compose the largest portion of the whales' diet, and are therefore critical to the recovery of the species. Further, several runs of chinook salmon in Washington state are listed under the federal endangered species act, making chinook recovery all the more urgent.

(3) The task force identified four overarching southern resident killer whale recovery goals and adopted several recommendations for specific actions under each goal. Goal one identified by the task force is to increase chinook abundance, and actions under that goal relate to habitat protection, protection of chinook prey, such as forage fish, and reducing impacts of nonnative chinook predators.

(4) To address the need identified by the task force to increase chinook abundance, the legislature intends to take initial, important steps consistent with recommendations made by the governor's southern resident killer whale task force.

**NEW SECTION. Sec. 2.** A new section is added to chapter 77.08 RCW to read as follows:

The commission shall adopt rules to liberalize bag limits for bass, walleye, and channel catfish in all anadromous waters of the state in order to reduce the predation risk to salmon smolts.

**Sec. 3.** RCW 77.32.010 and 2014 c 48 s 26 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, fish, or take wildlife or seaweed. A recreational fishing or

shellfish license is not required for carp, freshwater 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) 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.

**NEW SECTION. Sec. 4.** A new section is added to chapter 77.55 RCW to read as follows:

(1) A person proposing construction or other work landward of the ordinary high water line that will use, divert, obstruct, or change the natural flow or bed of state waters shall submit a permit application to the department. However, if a person is unsure about whether the work requires a permit, they may request a preapplication determination from the department. The department must evaluate the proposed work and determine if the work is a hydraulic project and, if so, whether a permit from the department is required to ensure adequate protection of fish life.

(2) The preapplication determination request must be submitted through the department's online permitting system and must contain:

- (a) A description of the proposed project;
- (b) A map showing the location of the project site; and
- (c) Preliminary plans and specifications of the proposed construction or work, if available.

(3) The department shall provide tribes and local governments a seven calendar day review and comment period. The department shall consider all applicable written comments received before issuing a determination.

(4) The department shall issue a written determination, including the rationale for the decision, within twenty-one calendar days of receiving the request.

(5) Determinations made according to the provisions of this section are not subject to the requirements of chapter 43.21C RCW.

**NEW SECTION. Sec. 5.** A new section is added to chapter 77.55 RCW to read as follows:

(1) When the department determines that a violation of this chapter, or of any of the rules that implement this chapter, has occurred or is about to occur, it shall first attempt to achieve voluntary compliance. The department shall offer information and technical assistance to the project proponent, identifying one or more means to accomplish the project proponent's purposes within the framework of the law. The department shall provide a reasonable timeline to achieve voluntary compliance that takes into consideration factors specific to the violation, such as the complexity of the hydraulic project, the actual or potential harm to fish life or fish habitat, and the environmental conditions at the time.

(2) If a person violates this chapter, or any of the rules that implement this chapter, or deviates from a permit, the department may issue a notice of correction in accordance with chapter 43.05 RCW, a notice of violation in accordance with chapter 43.05 RCW, a stop work order, a notice to comply, or a notice of civil penalty as authorized by law and subject to chapter 43.05 RCW and RCW 34.05.110.

(3) For purposes of this section, the term "project proponent" means a person who has applied for a hydraulic project approval,

a person identified as an authorized agent on an application for a hydraulic project approval, a person who has obtained a hydraulic project approval, or a person who undertakes a hydraulic project without a hydraulic project approval.

(4) This section does not apply to a project, or to that portion of a project, that has received a forest practices hydraulic project permit from the department of natural resources pursuant to chapter 76.09 RCW.

**NEW SECTION. Sec. 6.** A new section is added to chapter 77.55 RCW to read as follows:

(1) The department may serve upon a project proponent a stop work order, which is a final order of the department, if:

(a) There is any severe violation of this chapter or of the rules implementing this chapter or there is a deviation from the hydraulic project approval that may cause significant harm to fish life; and

(b) Immediate action is necessary to prevent continuation of or to avoid more than minor harm to fish life or fish habitat.

(2)(a) The stop work order must set forth:

(i) A description of the condition that is not in compliance and the text of the specific section or subsection of this chapter or the rules that implement this chapter;

(ii) A statement of what is required to achieve compliance;

(iii) The date by which the department requires compliance;

(iv) Notice of the means to contact any technical assistance services provided by the department or others;

(v) Notice of when, where, and to whom the request to extend the time to achieve compliance for good cause may be filed with the department; and

(vi) The right to an appeal.

(b) A stop work order may require that any project proponent stop all work connected with the violation until corrective action is taken. A stop work order may also require that any project proponent take corrective action to prevent, correct, or compensate for adverse impacts to fish life and fish habitat.

(c) A stop work order must be authorized by senior or executive department personnel. The department shall initiate rule making to identify the appropriate level of senior and executive level staff approval for these actions based on the level of financial effect on the violator and the scope and scale of the impact to fish life and habitat.

(3) Within five business days of issuing the stop work order, the department shall mail a copy of the stop work order to the last known address of any project proponent, to the last known address of the owner of the land on which the hydraulic project is located, and to the local jurisdiction in which the hydraulic project is located. The department must take all measures reasonably calculated to ensure that the project proponent actually receives notice of the stop work order.

(4) Issuance of a stop work order may be informally appealed by a project proponent who was served with the stop work order or who received a copy of the stop work order from the department, or by the owner of the land on which the hydraulic project is located, to the department within thirty days from the date of receipt of the stop work order. Requests for informal appeal must be filed in the form and manner prescribed by the department by rule. A stop work order that has been informally appealed to the department is appealable to the board within thirty days from the date of receipt of the department's decision on the informal appeal.

(5) The project proponent who was served with the stop work order or who received a copy of the stop work order from the department, or the owner of the land on which the hydraulic project is located, may commence an appeal to the board within thirty days from the date of receipt of the stop work order. If such

an appeal is commenced, the proceeding is an adjudicative proceeding under the administrative procedure act, chapter 34.05 RCW. The recipient of the stop work order must comply with the order of the department immediately upon being served, but the board may stay, modify, or discontinue the order, upon motion, under such conditions as the board may impose.

(6) This section does not apply to a project, or to that portion of a project, that has received a forest practices hydraulic project permit from the department of natural resources pursuant to chapter 76.09 RCW.

(7) For the purposes of this section, "project proponent" has the same meaning as defined in section 5(3) of this act.

**NEW SECTION. Sec. 7.** A new section is added to chapter 77.55 RCW to read as follows:

(1)(a) If a violation of this chapter or of the rules implementing this chapter, a deviation from the hydraulic project approval, damage to fish life or fish habitat, or potential damage to fish life or fish habitat, has occurred and the department determines that a stop work order is unnecessary, the department may issue and serve upon a project proponent a notice to comply, which must clearly set forth:

(i) A description of the condition that is not in compliance and the text of the specific section or subsection of this chapter or the rules that implement this chapter;

(ii) A statement of what is required to achieve compliance;

(iii) The date by which the department requires compliance to be achieved;

(iv) Notice of the means to contact any technical assistance services provided by the department or others;

(v) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the department; and

(vi) The right to an appeal.

(b) The notice to comply may require that any project proponent take corrective action to prevent, correct, or compensate for adverse impacts to fish life or fish habitat.

(2) Within five business days of issuing the notice to comply, the department shall mail a copy of the notice to comply to the last known address of any project proponent, to the last known address of the owner of the land on which the hydraulic project is located, and to the local jurisdiction in which the hydraulic project is located. The department must take all measures reasonably calculated to ensure that the project proponent actually receives notice of the notice to comply.

(3) Issuance of a notice to comply may be informally appealed by a project proponent who was served with the notice to comply or who received a copy of the notice to comply from the department, or by the owner of the land on which the hydraulic project is located, to the department within thirty days from the date of receipt of the notice to comply. Requests for informal appeal must be filed in the form and manner prescribed by the department by rule. A notice to comply that has been informally appealed to the department is appealable to the board within thirty days from the date of receipt of the department's decision on the informal appeal.

(4) The project proponent who was served with the notice to comply, the project proponent who received a copy of the notice to comply from the department, or the owner of the land on which the hydraulic project is located may commence an appeal to the board within thirty days from the date of receipt of the notice to comply. If such an appeal is commenced, the proceeding is an adjudicative proceeding under the administrative procedure act, chapter 34.05 RCW. The recipient of the notice to comply must comply with the notice to comply immediately upon being served, but the board may stay, modify, or discontinue the notice to



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comply, upon motion, under such conditions as the board may impose.

(5) This section does not apply to a project, or to that portion of a project, that has received a forest practices hydraulic project permit from the department of natural resources pursuant to chapter 76.09 RCW.

(6) For the purposes of this section, "project proponent" has the same meaning as defined in section 5(3) of this act.

**NEW SECTION. Sec. 8.** A new section is added to chapter 77.55 RCW to read as follows:

(1)(a) If section 13 of this act is enacted into law by June 30, 2019, the department may levy civil penalties of up to ten thousand dollars for every violation of this chapter or of the rules that implement this chapter. If section 13 of this act is not enacted into law by June 30, 2019, the department may levy civil penalties of up to one hundred dollars for every violation of this chapter or of the rules that implement this chapter. Each and every violation is a separate and distinct civil offense.

(b) Penalties must be authorized by senior or executive department personnel. The department shall initiate rule making to identify the appropriate level of senior and executive level staff approval for these actions based on the level of financial effect on the violator and the scope and scale of the impact to fish life and habitat.

(2) The penalty provided must be imposed by notice in writing by the department, provided either by certified mail or by personal service, to the person incurring the penalty and to the local jurisdiction in which the hydraulic project is located, describing the violation. The department must take all measures reasonably calculated to ensure that the project proponent actually receives notice of the notice of penalty. The civil penalty notice must set forth:

- (a) The basis for the penalty;
- (b) The amount of the penalty; and
- (c) The right of the person incurring the penalty to appeal the civil penalty.

(3)(a) Except as provided in (b) of this subsection, any person incurring any penalty under this chapter may appeal the penalty to the board pursuant to chapter 34.05 RCW. Appeals must be filed within thirty days from the date of receipt of the notice of civil penalty in accordance with RCW 43.21B.230.

(b) Issuance of a civil penalty may be informally appealed by the person incurring the penalty to the department within thirty days from the date of receipt of the notice of civil penalty. Requests for informal appeal must be filed in the form and manner prescribed by the department by rule. A civil penalty that has been informally appealed to the department is appealable to the board within thirty days from the date of receipt of the department's decision on the informal appeal.

(4) The penalty imposed becomes due and payable thirty days after receipt of a notice imposing the penalty unless an appeal is filed. Whenever an appeal of any penalty incurred under this chapter is filed, the penalty becomes due and payable only upon completion of all review proceedings and the issuance of a final order confirming the penalty in whole or in part. When the penalty becomes past due, it is also subject to interest at the rate allowed by RCW 43.17.240 for debts owed to the state.

(5) If the amount of any penalty is not paid within thirty days after it becomes due and payable, the attorney general, upon the request of the director, shall bring an action in the name of the state of Washington in the superior court of Thurston county or of the county in which such a violation occurred, to recover the penalty. In all such actions, the rules of civil procedures and the rules of evidence are the same as in an ordinary civil action. The department is also entitled to recover reasonable attorneys' fees

and costs incurred in connection with the penalty recovered under this section. All civil penalties received or recovered by state agency action for violations as prescribed in subsection (1) of this section must be deposited into the state's general fund. The department is authorized to retain any attorneys' fees and costs it may be awarded in connection with an action brought to recover a civil penalty issued pursuant to this section.

(6) The department shall adopt by rule a penalty schedule to be effective by January 1, 2020. The penalty schedule must be developed in consideration of the following:

- (a) Previous violation history;
- (b) Severity of the impact on fish life and fish habitat;
- (c) Whether the violation of this chapter or of its rules was intentional;
- (d) Cooperation with the department;
- (e) Reparability of any adverse effects resulting from the violation; and

(f) The extent to which a penalty to be imposed on a person for a violation committed by another should be reduced if the person was unaware of the violation and has not received a substantial economic benefit from the violation.

(7) This section does not apply to a project, or to that portion of a project, that has received a forest practices hydraulic project permit from the department of natural resources pursuant to chapter 76.09 RCW.

**NEW SECTION. Sec. 9.** A new section is added to chapter 77.55 RCW to read as follows:

(1) The department may apply for an administrative inspection warrant in either Thurston county superior court or the superior court in the county in which the hydraulic project is located. The court may issue an administrative inspection warrant where:

- (a) Department personnel need to inspect the hydraulic project site to ensure compliance with this chapter or with rules adopted to implement this chapter; or
- (b) Department personnel have probable cause to believe that a violation of this chapter or of the rules that implement this chapter is occurring or has occurred.

(2) This section does not apply to a project, or to that portion of a project, that has received a forest practices hydraulic project permit from the department of natural resources pursuant to chapter 76.09 RCW.

**NEW SECTION. Sec. 10.** A new section is added to chapter 77.55 RCW to read as follows:

(1) The department may disapprove an application for hydraulic project approval submitted by a person who has failed to comply with a final order issued pursuant to section 6 or 7 of this act or who has failed to pay civil penalties issued pursuant to section 8 of this act. Applications may be disapproved for up to one year from the issuance of a notice of intent to disapprove applications under this section, or until all outstanding civil penalties are paid and all outstanding notices to comply and stop work orders are complied with, whichever is longer.

(2) The department shall provide written notice of its intent to disapprove an application under this section to the applicant and to any authorized agent or landowner identified in the application.

(3) The disapproval period runs from thirty days following the date of actual notice of intent or when all administrative and judicial appeals, if any, have been exhausted.

(4) Any person provided the notice may seek review from the board by filing a request for review within thirty days of the date of the notice of intent to disapprove applications.

**NEW SECTION. Sec. 11.** A new section is added to chapter 77.55 RCW to read as follows:

The remedies under this chapter are not exclusive and do not

limit or abrogate any other civil or criminal penalty, remedy, or right available in law, equity, or statute.

**Sec. 12.** RCW 43.21B.110 and 2013 c 291 s 34 are each amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 70.94 RCW, local health departments, the department of natural resources, the department of fish and wildlife, the parks and recreation commission, and authorized public entities described in chapter 79.100 RCW:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, 76.09.170, (~~77.55.291~~) section 8 of this act, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70.95.300.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70.95.205.

(g) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026.

(h) Any other decision by the department or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(i) Decisions of the department of natural resources, the department of fish and wildlife, and the department that are reviewable under chapter 76.09 RCW, and the department of natural resources' appeals of county, city, or town objections under RCW 76.09.050(7).

(j) Forest health hazard orders issued by the commissioner of public lands under RCW 76.06.180.

(k) Decisions of the department of fish and wildlife to issue, deny, condition, or modify a hydraulic project approval permit under chapter 77.55 RCW, to issue a stop work order, to issue a notice to comply, to issue a civil penalty, or to issue a notice of intent to disapprove applications.

(l) Decisions of the department of natural resources that are reviewable under RCW 78.44.270.

(m) Decisions of an authorized public entity under RCW 79.100.010 to take temporary possession or custody of a vessel or to contest the amount of reimbursement owed that are reviewable by the hearings board under RCW 79.100.120.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

(c) Appeals of decisions by the department under RCW 90.03.110 and 90.44.220.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

**NEW SECTION. Sec. 13.** A new section is added to chapter 43.23 RCW to read as follows:

(1) The state conservation commission shall convene and facilitate the departments of ecology, agriculture, fish and wildlife, and natural resources, and the state conservation commission to work together cooperatively, efficiently, and productively on the expeditious construction of three demonstration projects. The legislature expects that the joint and contemporaneous participation of all these state agencies will expedite the permitting of these demonstration projects. The legislature further intends that the collaborative process that the stakeholder group creates, including local stakeholders among others, will be used as a model for river management throughout the state.

(2) The floodplain management strategies developed in the process in this section must address multiple benefits including: Reducing flood hazard to public infrastructure and other land uses caused by sediment accumulation or for other causes; improving fish and wildlife habitat; sustaining viable agriculture; and public access.

(3) The state conservation commission and the departments of agriculture, natural resources, fish and wildlife, and ecology must jointly identify and assess three demonstration projects that test the effectiveness and costs of river management by using various management strategies and techniques as applied to accomplish the following goals:

(a) Protection of agricultural lands;

(b) Restoration or enhancement of fish runs; and

(c) Protection of public infrastructure and recreational access.

(4)(a) The state conservation commission must convene and facilitate a stakeholder group consisting of the departments of agriculture, natural resources, fish and wildlife, and ecology, and the state conservation commission, local and statewide agricultural organizations and conservation districts, land conservation organizations, and local governments with interest and experience in floodplain management techniques. The stakeholder group must develop and assess three demonstration projects, one located in Whatcom county, one located in Snohomish county, and one located in Grays Harbor county. The departments must also seek the participation and the views of the federally recognized tribes that may be affected by each pilot project.

(b) The disposition of any gravel resources removed as a result of these pilot projects that are owned by the state must be consistent with chapter 79.140 RCW, otherwise they must be: (i) Used at the departments' discretion in projects related to fish programs in the local area of the project or by property owners adjacent to the project; (ii) made available to a local tribe for its use; or (iii) sold and the proceeds applied to funding the demonstration projects.

(5) At a minimum, the pilot projects must examine the following management strategies and techniques:

(a) Setting back levees and other measures to accommodate

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high flow with reduced risk to property, while providing space for river processes that are vital to the creation of fish habitat;

- (b) Providing deeper, cooler holes for fish life;
- (c) Removing excess sediment and gravel that causes diversion of water and erosion of river banks and farmland;
- (d) Providing off-channels for habitat as refuge during high flows;
- (e) Ensuring that any management activities leave sufficient gravel and sediment for fish spawning and rearing;
- (f) Providing stable river banks that will allow for long-term growth of riparian enhancement efforts, such as planting shade trees and hedgerows;
- (g) Protecting existing mature treed riparian zones that cool the waters;
- (h) Restoring previously existing bank contours that protect the land from erosion caused by more intense and more frequent flooding; and
- (i) Developing management practices that reduce the amount of gravel, sediment, and woody debris deposited into farm fields.

(6) By December 31, 2020, the state conservation commission must coordinate the development of a report to the legislative committees with oversight of agriculture, water, rural economic development, ecology, fish and wildlife, and natural resources. The report should include the input of all state agencies, tribes, local entities, and stakeholders participating in, or commenting on, the process identified in this section. The report must include, but not be limited to, the following elements: (a) Their progress toward setting benchmarks and meeting the stakeholder group's timetable; (b) any decisions made in assessing the projects; and (c) agency recommendations for funding of the projects from federal grants, federal loans, state grants and loans, and private donations, or if other funding sources are not available or complete, submitting the three projects for consideration in the biennial capital budget request to the governor and the legislature. The departments must report annually thereafter by December 31st of each year.

(7) The stakeholder group must be staffed jointly by the departments.

(8) Within amounts appropriated in the omnibus operating appropriations act, the state conservation commission, the department of ecology, the department of agriculture, the department of fish and wildlife, and the department of natural resources shall implement all requirements in this section.

(9) This section expires June 30, 2030.

**NEW SECTION. Sec. 14.** The following acts or parts of acts are each repealed:

(1) RCW 77.55.141 (Marine beach front protective bulkheads or rockwalls) and 2010 c 210 s 28, 2005 c 146 s 501, & 1991 c 279 s 1; and

(2) RCW 77.55.291 (Civil penalty) and 2010 c 210 s 31, 2005 c 146 s 701, 2000 c 107 s 19, 1993 sp.s. c 2 s 35, 1988 c 36 s 35, & 1986 c 173 s 6."

On page 1, line 3 of the title, after "abundance;" strike the remainder of the title and insert "amending RCW 77.32.010 and 43.21B.110; adding a new section to chapter 77.08 RCW; adding new sections to chapter 77.55 RCW; adding a new section to chapter 43.23 RCW; creating a new section; repealing RCW 77.55.141 and 77.55.291; prescribing penalties; and providing an expiration date."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Second Substitute House Bill No. 1579.

The motion by Senator Van De Wege carried and the committee striking amendment was adopted by voice vote.

MOTION

On motion of Senator Van De Wege, the rules were suspended, Second Substitute House Bill No. 1579 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Van De Wege spoke in favor of passage of the bill.

Senators Schoesler, Warnick and Honeyford spoke against passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1579 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1579 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 26; Nays, 20; Absent, 0; Excused, 3.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Holy, Honeyford, King, O'Ban, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Walsh, Warnick and Zeiger

Excused: Senators McCoy, Mullet and Wilson, L.

SECOND SUBSTITUTE HOUSE BILL NO. 1579, as amended by the Senate 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.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1994, by House Committee on Transportation (originally sponsored by Wylie, Vick, Stonier, Hoff and Harris)

Facilitating transportation projects of statewide significance.

The measure was read the second time.

MOTION

On motion of Senator Cleveland, the rules were suspended, Engrossed Substitute House Bill No. 1994 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Cleveland and Rivers spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1994.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1994 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 5; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown,

Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Sheldon, Takko, Wagoner, Walsh, Wellman, Wilson, C. and Zeiger

Voting nay: Senators Honeyford, Schoesler, Short, Van De Wege and Warnick

Excused: Senators McCoy, Mullet and Wilson, L.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1994, 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.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 1465, by Representatives Goodman, Jinkins and Santos

Concerning requirements for pistol sales or transfers.

The measure was read the second time.

#### MOTION

Senator Holy moved that the following amendment no. 582 by Senator Holy be adopted:

On page 6, beginning on line 20, strike all material through "patrol." on line 29 and insert "(1) Section 1 of this act expires July 1, 2021, if the contingency in subsection (2) of this section does not occur by January 1, 2021, as determined by the Washington state patrol.

(2) Section 1 of this act expires six months after the date on which the Washington state patrol determines that a single point of contact firearm background check system, for purposes of the federal Brady handgun violence prevention act (18 U.S.C. Sec. 921 et seq.), is operational in the state.

(3) If section 1 of this act expires pursuant to subsection (2) of this section, the Washington state patrol must provide written notice of the expiration to 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 Washington state patrol."

Senators Holy and Fortunato spoke in favor of adoption of the amendment.

Senators Pedersen and Padden spoke against adoption of the amendment.

Senator Short demanded a roll call.

The President Pro Tempore declared that one-sixth of the members supported the demand and the demand was sustained.

#### MOTION

On motion of Senator Liias, further consideration of Engrossed House Bill No. 1465 was deferred and the bill held its place on the second reading calendar.

#### MOTION

At 6:42 p.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

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#### EVENING SESSION

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The Senate was called to order at 7:50 p.m. by President Pro Tempore Keiser.

#### SECOND READING

HOUSE BILL NO. 1176, by Representatives Hoff and Kirby

Providing consistency and efficiency in the regulation of auctioneers and auction companies, engineering and land surveying, real estate, funeral directors, and cosmetology.

The measure was read the second time.

#### MOTION

Senator Van De Wege moved that the following striking amendment no. 540 by Senator Van De Wege be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 18.11.085 and 2002 c 86 s 206 are each amended to read as follows:

Every individual, before acting as an auctioneer, shall obtain an auctioneer certificate of registration. To be licensed as an auctioneer, an individual shall meet all of the following requirements:

(1) Be at least eighteen years of age or sponsored by a licensed auctioneer.

(2) File with the department a completed application on a form prescribed by the director.

(3) ~~((Show that the proper tax registration certificate required by))~~ Be registered with the department of revenue pursuant to RCW 82.32.030 ~~((has been obtained from the department of revenue)).~~

(4) Pay the auctioneer registration fee required under the agency rules adopted pursuant to this chapter.

(5) Except as otherwise provided under RCW 18.11.121, file with the department an auctioneer surety bond in the amount and form required by RCW 18.11.121 and the agency rules adopted pursuant to this chapter.

(6) Have no disqualifications under RCW 18.11.160 or 18.235.130.

**Sec. 2.** RCW 18.11.095 and 2002 c 86 s 207 are each amended to read as follows:

Every person, before operating an auction company as defined in RCW 18.11.050, shall obtain an auction company certificate of registration.

(1) Except as provided in subsection (2) of this section, to be licensed as an auction company, a person shall meet all of the following requirements:

(a) File with the department a completed application on a form prescribed by the director.

(b) Sign a notarized statement included on the application form that all auctioneers hired by the auction company to do business in the state shall be properly registered under this chapter.

(c) ~~((Show that the proper tax registration certificate required by))~~ Be registered with the department of revenue pursuant to RCW 82.32.030 ~~((has been obtained from the department of revenue))~~ and, if an ownership entity other than sole proprietor or general partnership, be registered with the secretary of state.

(d) Pay the auction company registration fee required under the agency rules adopted pursuant to this chapter.

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(e) File with the department an auction company surety bond in the amount and form required by RCW 18.11.121 and the agency rules adopted pursuant to this chapter.

(f) Have no disqualifications under RCW 18.11.160 or 18.235.130.

(2) An auction company shall not be charged a license fee if it is a sole proprietorship or a partnership owned by an auctioneer or auctioneers, each of whom is licensed under this chapter, and if it has in effect a surety bond or bonds or other security approved by the director in the amount that would otherwise be required for an auction company to be granted or to retain a license under RCW 18.11.121.

**Sec. 3.** RCW 18.43.130 and 2002 c 86 s 227 are each amended to read as follows:

This chapter shall not be construed to prevent or affect:

(1) The practice of any other legally recognized profession or trade; or

(2) The practice of a person not a resident and having no established place of business in this state, practicing or offering to practice herein the profession of engineering or land surveying, when such practice does not exceed in the aggregate more than thirty days in any calendar year: PROVIDED, Such person has been determined by the board to be legally qualified by registration to practice the said profession in his or her own state or country in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this chapter. The person shall request such a determination by completing an application prescribed by the board and accompanied by a fee determined by the ~~((director))~~ board. Upon approval of the application, the board shall issue a permit authorizing temporary practice; or

(3) The practice of a person not a resident and having no established place of business in this state, or who has recently become a resident thereof, practicing or offering to practice herein for more than thirty days in any calendar year the profession of engineering or land surveying, if he or she shall have filed with the board an application for a certificate of registration and shall have paid the fee required by this chapter: PROVIDED, That such person is legally qualified by registration to practice engineering or land surveying in his or her own state or country in which the requirements and qualifications of obtaining a certificate of registration are not lower than those specified in this chapter. Such practice shall continue only for such time as the board requires for the consideration of the application for registration; or

(4) The work of an employee or a subordinate of a person holding a certificate of registration under this chapter, or an employee of a person practicing lawfully under provisions of this section: PROVIDED, That such work does not include final design or decisions and is done under the direct responsibility, checking, and supervision of a person holding a certificate of registration under this chapter or a person practicing lawfully under the provisions of this section; or

(5) The work of a person rendering engineering or land surveying services to a corporation, as an employee of such corporation, when such services are rendered in carrying on the general business of the corporation and such general business does not consist, either wholly or in part, of the rendering of engineering services to the general public: PROVIDED, That such corporation employs at least one person holding a certificate of registration under this chapter or practicing lawfully under the provisions of this chapter; or

(6) The practice of officers or employees of the government of the United States while engaged within the state in the practice of the profession of engineering or land surveying for the

government of the United States; or

(7) Nonresident engineers employed for the purpose of making engineering examinations; or

(8) The practice of engineering or land surveying, or both, in this state by a corporation or joint stock association: PROVIDED, That

(a) The corporation has filed with the board an application for certificate of authorization upon a form to be prescribed by the board and containing information required to enable the board to determine whether such corporation is qualified in accordance with this chapter to practice engineering or land surveying, or both, in this state;

(b) For engineering, the corporation has filed with the board a certified copy of a resolution of the board of directors of the corporation that shall designate a person holding a certificate of registration under this chapter as responsible for the practice of engineering by the corporation in this state and shall provide that full authority to make all final engineering decisions on behalf of the corporation with respect to work performed by the corporation in this state shall be granted and delegated by the board of directors to the person so designated in the resolution. For land surveying, the corporation has filed with the board a certified copy of a resolution of the board of directors of the corporation which shall designate a person holding a certificate of registration under this chapter as responsible for the practice of land surveying by the corporation in this state and shall provide full authority to make all final land surveying decisions on behalf of the corporation with respect to work performed by the corporation in this state be granted and delegated by the board of directors to the person so designated in the resolution. If a corporation offers both engineering and land surveying services, the board of directors shall designate both a licensed engineer and a licensed land surveyor. If a person is licensed in both engineering and land surveying, the person may be designated for both professions. The resolution shall further state that the bylaws of the corporation shall be amended to include the following provision: "The designated engineer or land surveyor, respectively, named in the resolution as being in responsible charge, or an engineer or land surveyor under the designated engineer or land surveyor's direct supervision, shall make all engineering or land surveying decisions pertaining to engineering or land surveying activities in the state of Washington." However, the filing of the resolution shall not relieve the corporation of any responsibility or liability imposed upon it by law or by contract;

(c) If there is a change in the designated engineer or designated land surveyor, the corporation shall notify the board in writing within thirty days after the effective date of the change. If the corporation changes its name, the corporation shall submit a copy of its amended certificate of authority or amended certificate of incorporation as filed with the secretary of state within thirty days of the filing;

(d) Upon the filing with the board the application for certificate for authorization, certified copy of resolution and an affidavit, and the designation of a designated engineer or designated land surveyor, or both, specified in (b) of this subsection, ~~((a certificate of incorporation or certificate of authorization as filed with the secretary of state, and a copy of the corporation's current Washington business license,))~~ the board shall issue to the corporation a certificate of authorization to practice engineering or land surveying, or both, in this state upon a determination by the board that:

(i) The designated engineer or designated land surveyor, or both, hold a certificate of registration in this state in accordance with this chapter and the certificate is in force;

(ii) The designated engineer or designated land surveyor, or

both, are not designated in responsible charge for another corporation or a limited liability company; (~~and~~)

(iii) The corporation is licensed with the secretary of state and holds a current unified business identification number and the board determines, based on evaluating the findings and information in this section, that the applicant corporation possesses the ability and competence to furnish engineering or land surveying services, or both, in the public interest; and

(iv) The corporation is registered with the department of revenue pursuant to RCW 82.32.030.

The board may exercise its discretion to take any of the actions under RCW 18.235.110 or this chapter with respect to a certificate of authorization issued to a corporation if the board finds that any of the officers, directors, incorporators, or the stockholders holding a majority of stock of such corporation has engaged in unprofessional conduct as defined in RCW 18.43.105 or 18.235.130 or has been found personally responsible for unprofessional conduct under (f) and (g) of this subsection.

(e) Engineers or land surveyors organized as a professional service corporation under chapter 18.100 RCW are exempt from applying for a certificate of authorization under this chapter.

(f) Any corporation authorized to practice engineering under this chapter, together with its directors and officers for their own individual acts, are responsible to the same degree as an individual registered engineer, and must conduct its business without unprofessional conduct in the practice of engineering as defined in this chapter and RCW 18.235.130.

(g) Any corporation that is certified under this chapter is subject to the authority of the board as provided in RCW 18.43.035, 18.43.105, 18.43.110, 18.43.120, and chapter 18.235 RCW.

(h) All plans, specifications, designs, and reports when issued in connection with work performed by a corporation under its certificate of authorization shall be prepared by or under the direct supervision of and shall be signed by and shall be stamped with the official seal of a person holding a certificate of registration under this chapter.

(i) For each certificate of authorization issued under this subsection (8) there shall be paid an initial fee determined by the (~~director as provided in RCW 43.24.086~~) board and an annual renewal fee determined by the (~~director as provided in RCW 43.24.086~~) board.

(9) The practice of engineering and/or land surveying in this state by a partnership if the partnership employs at least one person holding a valid certificate of registration under this chapter to practice engineering or land surveying, or both. The board shall not issue certificates of authorization to partnerships after July 1, 1998. Partnerships currently registered with the board are not required to pay an annual renewal fee after July 1, 1998.

(10) The practice of engineering or land surveying, or both, in this state by limited liability companies: Provided, That

(a) The limited liability company has filed with the board an application for certificate of authorization upon a form to be prescribed by the board and containing information required to enable the board to determine whether the limited liability company is qualified under this chapter to practice either or both engineering or land surveying in this state.

(b) The limited liability company has filed with the board a certified copy of a resolution by the company manager or managers that shall designate a person holding a certificate of registration under this chapter as being responsible for the practice of engineering or land surveying, or both, by the limited liability company in this state and that the designated person has full authority to make all final engineering or land surveying decisions on behalf of the limited liability company with respect to work performed by the limited liability company in this state.

The resolution shall further state that the limited liability company agreement shall be amended to include the following provision: "The designated engineer or land surveyor, respectively, named in the resolution as being in responsible charge, or an engineer or land surveyor under the designated engineer or land surveyor's direct supervision, shall make all engineering or land surveying decisions pertaining to engineering or land surveying activities in the state of Washington." However, the filing of the resolution shall not relieve the limited liability company of responsibility or liability imposed upon it by law or by contract.

(c) The designated engineer for the limited liability company must hold a current professional engineer license issued by this state.

The designated land surveyor for the limited liability company must hold a current professional land surveyor license issued by this state.

If a person is licensed as both a professional engineer and as a professional land surveyor in this state, then the limited liability company may designate the person as being in responsible charge for both professions.

If there is a change in the designated engineer or designated land surveyor, the limited liability company shall notify the board in writing within thirty days after the effective date of the change. If the limited liability company changes its name, the company shall submit to the board a copy of the certificate of amendment filed with the secretary of state's office.

(d) Upon the filing with the board the application for certificate of authorization, a certified copy of the resolution, and an affidavit from the designated engineer or the designated land surveyor, or both, specified in (b) and (c) of this subsection, (~~a copy of the certificate of formation as filed with the secretary of state, and a copy of the company's current business license,~~) the board shall issue to the limited liability company a certificate of authorization to practice engineering or land surveying, or both, in this state upon determination by the board that:

(i) The designated engineer or designated land surveyor, or both, hold a certificate of registration in this state under this chapter and the certificate is in force;

(ii) The designated engineer or designated land surveyor, or both, are not designated in responsible charge for another limited liability company or a corporation;

(iii) The limited liability company is licensed with the secretary of state and has a current unified business identification number and that the board determines, based on evaluating the findings and information under this subsection, that the applicant limited liability company possesses the ability and competence to furnish either or both engineering or land surveying services in the public interest; and

(iv) The limited liability company is registered with the department of revenue pursuant to RCW 82.32.030.

The board may exercise its discretion to take any of the actions under RCW 18.235.110 and 18.43.105 with respect to a certificate of authorization issued to a limited liability company if the board finds that any of the managers or members holding a majority interest in the limited liability company has engaged in unprofessional conduct as defined in RCW 18.43.105 or 18.235.130 or has been found personally responsible for unprofessional conduct under the provisions of (f) and (g) of this subsection.

(e) Engineers or land surveyors organized as a professional limited liability company are exempt from applying for a certificate of authorization under this chapter.

(f) Any limited liability company authorized to practice engineering or land surveying, or both, under this chapter, together with its manager or managers and members for their own

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individual acts, are responsible to the same degree as an individual registered engineer or registered land surveyor, and must conduct their business without unprofessional conduct in the practice of engineering or land surveying, or both.

(g) A limited liability company that is certified under this chapter is subject to the authority of the board as provided in RCW 18.43.035, 18.43.105, 18.43.110, 18.43.120, and chapter 18.235 RCW.

(h) All plans, specifications, designs, and reports when issued in connection with work performed by a limited liability company under its certificate of authorization shall be prepared by or under the direct supervision of and shall be signed by and shall be stamped with the official seal of a person holding a certificate of registration under this chapter.

(i) For each certificate of authorization issued under this subsection (10) there shall be paid an initial fee determined by the ~~((director as provided in RCW 43.24.086))~~ board and an annual renewal fee determined by the ~~((director as provided in RCW 43.24.086))~~ board.

**Sec. 4.** RCW 18.85.171 and 2008 c 23 s 17 are each amended to read as follows:

(1) A person desiring a license as a real estate firm shall apply on a form prescribed by the director. A person desiring a license as a real estate broker or managing broker must pay an examination fee and pass an examination. The person shall apply for an examination and for a license on a form prescribed by the director. Concurrently, the applicant shall meet the following requirements:

(a) Furnish other proof as the director may require concerning the honesty, truthfulness, and good reputation, as well as the identity, which may include fingerprints and criminal background checks, of any applicants for a license, or of the officers of a corporation, limited liability company, other legally recognized business entity, or the partners of a limited liability partnership or partnership, making the application;

~~(b) ((If the applicant is a corporation, furnish a certified copy of its articles of incorporation, and a list of its officers and directors and their addresses. If the applicant is a foreign corporation, the applicant shall furnish a certified copy of certificate of authority to conduct business in the state of Washington, a list of its officers and directors and their addresses, and evidence of current registration with the secretary of state. If the applicant is a limited liability company or other legally recognized business entity, the applicant shall furnish a list of the members and managers of the company and their addresses.)) If the applicant is a legally recognized business entity, except a general partnership, it must be registered with the secretary of state and must furnish a list of governors that includes:~~

~~(i) For corporations, a list of officers and directors and their addresses;~~

~~(ii) For limited liability companies, a list of members and managers and their addresses;~~

~~(iii) For limited liability partnerships, a list of the partners and their addresses; or~~

~~(iv) For other legal business entities, a list of the governors and their addresses.~~

~~(c) If the applicant is a ((limited liability partnership or)) general partnership, the applicant shall furnish a copy of the signed partnership agreement and a list of the partners thereof and their addresses;~~

~~((e))~~ (d) Unless the applicant is a corporation or limited liability company, complete a fingerprint-based background check through the Washington state patrol criminal identification system and through the federal bureau of investigation. The applicant must submit the fingerprints and required fee for the

background check to the director for submission to the Washington state patrol. The director may consider the recent issuance of a license that required a fingerprint-based national criminal information background check, or recent employment in a position that required a fingerprint-based national criminal information background check, in addition to fingerprints to accelerate the licensing and endorsement process. The director may adopt rules to establish a procedure to allow a person covered by this section to have the person's background rechecked under this subsection upon application for a renewal license.

(2) The director must develop by rule a procedure and schedule to ensure all applicants for licensure have a fingerprint and background check done on a regular basis.

**Sec. 5.** RCW 18.43.050 and 1995 c 356 s 3 are each amended to read as follows:

Application for registration shall be on forms prescribed by the board and furnished by the director, shall contain statements made under oath, showing the applicant's education and detail summary of his or her technical work and shall contain ~~((not less than five references, of whom three or more shall be))~~ verification of the technical work from professional engineers ((having)) that supervised the applicant's technical work and have personal knowledge of the applicant's engineering experience.

The registration fee for professional engineers shall be determined by the ~~((director as provided in RCW 43.24.086))~~ board, which shall accompany the application and shall include the cost of examination and issuance of certificate. The fee for engineer-in-training shall be determined by the ~~((director as provided in RCW 43.24.086))~~ board, which shall accompany the application and shall include the cost of examination and issuance of certificate.

The registration fee for professional land surveyors shall be determined by the ~~((director as provided in RCW 43.24.086))~~ board, which shall accompany the application and shall include the cost of examination and issuance of certificate. The fee for land-surveyor-in-training shall be determined by the ~~((director as provided in RCW 43.24.086))~~ board, which shall accompany the application and shall include the cost of examination and issuance of certificate.

Should the board find an applicant ineligible for registration, the registration fee shall be retained as an application fee.

**Sec. 6.** RCW 18.39.070 and 2005 c 365 s 5 are each amended to read as follows:

(1) License examinations shall be held by the director at least once each year at a time and place to be designated by the director. Application to take an examination shall be filed with the director at least fifteen days prior to the examination date. The department shall give each applicant written notice of the time and place of the next examination. The applicant shall be deemed to have passed an examination if the applicant attains a grade of not less than seventy-five percent in each examination. ~~((Any applicant who fails an examination shall be entitled, at no additional fee, to one retake of that examination.))~~

(2) An applicant for a license may take his or her written examination after completing the educational requirements and before completing the course of training required under RCW 18.39.035.

**Sec. 7.** RCW 18.16.030 and 2015 c 62 s 2 are each amended to read as follows:

In addition to any other duties imposed by law, including RCW 18.235.030 and 18.235.040, the director shall have the following powers and duties:

(1) To set all license, examination, and renewal fees in accordance with RCW 43.24.086;

- (2) To adopt rules necessary to implement this chapter;
- (3) To prepare and administer or approve the preparation and administration of licensing examinations;
- (4) To establish minimum safety and sanitation standards for schools, instructors, cosmetologists, barbers, hair designers, manicurists, estheticians, master estheticians, salons/shops, personal services, and mobile units;
- (5) To establish curricula for the training of students and apprentices under this chapter;
- (6) To maintain the official department record of applicants and licensees;
- (7) To establish by rule the procedures for an appeal of an examination failure;
- (8) To set license expiration dates and renewal periods for all licenses consistent with this chapter; and
- (9) ~~(To ensure that all informational notices produced and mailed by the department regarding statutory and regulatory changes affecting any particular class of licensees are mailed to each licensee in good standing or on inactive status in the affected class whose mailing address on record with the department has not resulted in mail being returned as undeliverable for any reason; and~~
- ~~(10))~~ To make information available to the department of revenue to assist in collecting taxes from persons required to be licensed under this chapter.

**Sec. 8.** RCW 18.43.020 and 2007 c 193 s 2 are each amended to read as follows:

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

- (1) "Engineer" means a professional engineer as defined in this section.
- (2) "Professional engineer" means a person who, by reason of his or her special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by professional education and practical experience, is qualified to practice engineering as defined in this section, as attested by his or her legal registration as a professional engineer.
- (3) "Engineer-in-training" means a candidate who: (a) Has satisfied the experience requirements in RCW 18.43.040 for registration; (b) has successfully passed the examination in the fundamental engineering subjects; and (c) is enrolled by the board as an engineer-in-training.
- (4) "Engineering" means the "practice of engineering" as defined in this section.
- (5)(a) "Practice of engineering" means any professional service or creative work requiring engineering education, training, and experience and the application of special knowledge of the mathematical, physical, and engineering sciences to such professional services or creative work as consultation, investigation, evaluation, planning, design, and supervision of construction for the purpose of assuring compliance with specifications and design, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects.
- (b) A person shall be construed to practice or offer to practice engineering, within the meaning and intent of this chapter, who practices any branch of the profession of engineering; or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself or herself to be a professional engineer, or through the use of some other title implies that he or she is a professional engineer; or who holds himself or herself out as able to perform, or who does perform, any engineering service or work or any other professional service designated by the practitioner or recognized by educational authorities as engineering.

(c) The practice of engineering does not include the work ordinarily performed by persons who operate or maintain machinery or equipment.

(6) "Land surveyor" means a professional land surveyor.

(7) "Professional land surveyor" means a person who, by reason of his or her special knowledge of the mathematical and physical sciences and principles and practices of land surveying, which is acquired by professional education and practical experience, is qualified to practice land surveying and as attested to by his or her legal registration as a professional land surveyor.

(8) "Land-surveyor-in-training" means a candidate who: (a) Has satisfied the experience requirements in RCW 18.43.040 for registration; (b) successfully passes the examination in the fundamental land surveying subjects; and (c) is enrolled by the board as a land-surveyor-in-training.

(9) "Practice of land surveying" means assuming responsible charge of the surveying of land for the establishment of corners, lines, boundaries, and monuments, the laying out and subdivision of land, the defining and locating of corners, lines, boundaries, and monuments of land after they have been established, the survey of land areas for the purpose of determining the topography thereof, the making of topographical delineations and the preparing of maps and accurate records thereof, when the proper performance of such services requires technical knowledge and skill.

(10) "Board" means the state board of registration for professional engineers and land surveyors, provided for by this chapter.

(11) "Significant structures" include:

- (a) Hazardous facilities, defined as: Structures housing, supporting, or containing sufficient quantities of explosive substances to be of danger to the safety of the public if released;
- (b) Essential facilities that have a ground area of more than five thousand square feet and are more than twenty feet in mean roof height above average ground level. Essential facilities are defined as:
- (i) Hospitals and other medical facilities having surgery and emergency treatment areas;
- (ii) Fire and police stations;
- (iii) Tanks or other structures containing, housing, or supporting water or fire suppression material or equipment required for the protection of essential or hazardous facilities or special occupancy structures;
- (iv) Emergency vehicle shelters and garages;
- (v) Structures and equipment in emergency preparedness centers;
- (vi) Standby power-generating equipment for essential facilities;
- (vii) Structures and equipment in government communication centers and other facilities requiring emergency response;
- (viii) Aviation control towers, air traffic control centers, and emergency aircraft hangars; and
- (ix) Buildings and other structures having critical national defense functions;
- (c) Structures exceeding one hundred feet in height above average ground level;
- (d) Buildings that are customarily occupied by human beings and are five stories or more above average ground level;
- (e) Bridges having a total span of more than two hundred feet and piers having a surface area greater than ten thousand square feet; and
- (f) Buildings and other structures where more than three hundred people congregate in one area.

(12) "Director" means the executive director of the Washington state board of registration for professional engineers and land surveyors.



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**Sec. 9.** RCW 18.43.060 and 1991 c 19 s 4 are each amended to read as follows:

When oral or written examinations are required, they shall be held at such time and place as the board shall determine. If examinations are required on fundamental engineering subjects (such as ordinarily given in college curricula) the applicant shall be permitted to take this part of the professional examination prior to his or her completion of the requisite years of experience in engineering work. The board shall issue to each applicant upon successfully passing the examination in fundamental engineering subjects a certificate stating that the applicant has passed the examination in fundamental engineering subjects and that his or her name has been recorded as an engineer-in-training.

The scope of the examination and the methods of procedure shall be prescribed by the board with special reference to the applicant's ability to design and supervise engineering works so as to insure the safety of life, health and property. Examinations shall be given for the purpose of determining the qualifications of applicants for registration separately in engineering and in land surveying. A candidate failing an examination may apply for reexamination. Subsequent examinations will be granted upon payment of a fee to be determined by the ~~((director as provided in RCW 43.24.086))~~ board.

**Sec. 10.** RCW 18.43.070 and 2011 c 336 s 482 are each amended to read as follows:

The ~~((director of licensing))~~ board shall issue a certificate of registration upon payment of a registration fee as provided for in this chapter, to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this chapter. In case of a registered engineer, the certificate shall authorize the practice of "professional engineering" and specify the branch or branches in which specialized, and in case of a registered land surveyor, the certificate shall authorize the practice of "land surveying."

In case of engineer-in-training, the certificate shall state that the applicant has successfully passed the examination in fundamental engineering subjects required by the board and has been enrolled as an "engineer-in-training." In case of land-surveyor-in-training, the certificate shall state that the applicant has successfully passed the examination in fundamental surveying subjects required by the board and has been enrolled as a "land-surveyor-in-training." All certificates of registration shall show the full name of the registrant, shall have a serial number, and shall be signed by the chair and the secretary of the board and by the director ~~((of licensing))~~.

The issuance of a certificate of registration by the ~~((director of licensing))~~ board shall be prima facie evidence that the person named therein is entitled to all the rights and privileges of a registered professional engineer or a registered land surveyor, while the said certificate remains unrevoked and unexpired.

Each registrant hereunder shall upon registration obtain a seal of the design authorized by the board, bearing the registrant's name and the legend "registered professional engineer" or "registered land surveyor." Plans, specifications, plats, and reports prepared by the registrant shall be signed, dated, and stamped with said seal or facsimile thereof. Such signature and stamping shall constitute a certification by the registrant that the same was prepared by or under his or her direct supervision and that to his or her knowledge and belief the same was prepared in accordance with the requirements of the statute. It shall be unlawful for anyone to stamp or seal any document with said seal or facsimile thereof after the certificate of registrant named thereon has expired or been revoked, unless said certificate shall have been renewed or reissued.

**Sec. 11.** RCW 18.43.080 and 2005 c 29 s 1 are each amended

to read as follows:

(1) Certificates of registration, and certificates of authorization and renewals thereof, shall expire on the last day of the month of December following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the ~~((administrator of the division of professional licensing))~~ board to notify every person, firm, or corporation registered under this chapter of the date of the expiration of his or her certificate and the amount of the renewal fee that shall be required for its renewal for one year. Such notice shall be mailed at least thirty days before the end of December of each year. Renewal may be effected during the month of December by the payment of a fee determined by the ~~((director as provided in RCW 43.24.086))~~ board. In case any professional engineer and/or land surveyor registered under this chapter shall fail to pay the renewal fee hereinabove provided for, within ninety days from the date when the same shall become due, the renewal fee shall be the current fee plus an amount equal to one year's fee.

(2) Beginning July 1, 2007, the ~~((department of licensing))~~ board may not renew a certificate of registration for a land surveyor unless the registrant verifies to the board that he or she has completed at least fifteen hours of continuing professional development per year of the registration period. By July 1, 2006, the board shall adopt rules governing continuing professional development for land surveyors that are generally patterned after the model rules of the national council of examiners for engineering and surveying.

**Sec. 12.** RCW 18.43.100 and 1991 c 19 s 7 are each amended to read as follows:

The board may, upon application and the payment of a fee determined by the ~~((director as provided in RCW 43.24.086))~~ board, issue a certificate without further examination as a professional engineer or land surveyor to any person who holds a certificate of qualification of registration issued to the applicant following examination by proper authority, of any state or territory or possession of the United States, the District of Columbia, or of any foreign country, provided: (1) That the applicant's qualifications meet the requirements of the chapter and the rules established by the board, and (2) that the applicant is in good standing with the licensing agency in said state, territory, possession, district, or foreign country.

**Sec. 13.** RCW 18.43.110 and 2002 c 86 s 226 are each amended to read as follows:

The board shall have the exclusive power to discipline the registrant and sanction the certificate of registration of any registrant.

Any person may file a complaint alleging unprofessional conduct, as set out in RCW ~~((18.235.130 and))~~ 18.43.105, against any registrant. The complaint shall be in writing and shall be sworn to in writing by the person making the allegation. A registrant against whom a complaint was made must be immediately informed of such complaint by the board.

The board, for reasons it deems sufficient, may reissue a certificate of registration to any person whose certificate has been revoked or suspended, providing a majority of the board vote in favor of such issuance. A new certificate of registration to replace any certificate revoked, lost, destroyed, or mutilated may be issued, subject to the rules of the board, and a charge determined by the ~~((director as provided in RCW 43.24.086))~~ board shall be made for such issuance.

In addition to the imposition of disciplinary action under RCW 18.235.110 and 18.43.105, the board may refer violations of this chapter to the appropriate prosecuting attorney for charges under RCW 18.43.120.

**Sec. 14.** RCW 18.43.150 and 2016 sp.s. c 36 s 913 are each amended to read as follows:

The board shall set fees at a level adequate to pay the costs of administering this chapter. All fees collected under the provisions of RCW 18.43.050, 18.43.060, 18.43.080, 18.43.100, and 18.43.130 and fines collected under RCW 18.43.110 shall be paid into the professional engineers' account, which account is hereby established in the state treasury to be used to carry out the purposes and provisions of RCW 18.43.050, 18.43.060, 18.43.080, 18.43.100, 18.43.110, 18.43.120, 18.43.130, and all other duties required for operation and enforcement of this chapter. During the 2013-2015 and 2015-2017 fiscal (~~(biennium)~~) biennia, the legislature may transfer moneys from the professional engineers' account to the state general fund such amounts as reflect the excess fund balance of the fund.

**Sec. 15.** RCW 18.210.010 and 2011 c 256 s 1 are each amended to read as follows:

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

(1) "Board" means the board of registration for professional engineers and land surveyors as defined in chapter 18.43 RCW.

(2) "Certificate of competency" or "certificate" means a certificate issued to employees of local health jurisdictions indicating that the certificate holder has passed the licensing examination required under this chapter.

(3) "Designer" or "licensee" means an individual authorized under this chapter to perform design services for on-site wastewater treatment systems.

(4) "Director" means the executive director of the Washington state (~~(department of licensing)~~) board of registration for professional engineers and land surveyors.

(5) "Engineer" means a professional engineer licensed under chapter 18.43 RCW.

(6) "License" means a license to design on-site wastewater treatment systems under this chapter.

(7) "Local health jurisdiction" or "jurisdictional health department" means an administrative agency created under chapter 70.05, 70.08, or 70.46 RCW, that administers the regulation and codes regarding on-site wastewater treatment systems.

(8) "On-site wastewater design" means the development of plans, details, specifications, instructions, or inspections by application of specialized knowledge in analysis of soils, on-site wastewater treatment systems, disposal methods, and technologies to create an integrated system of collection, transport, distribution, treatment, and disposal of on-site wastewater.

(9) "On-site wastewater treatment system" means an integrated system of components that: Convey, store, treat, and/or provide subsurface soil treatment and disposal of wastewater effluent on the property where it originates or on adjacent or other property and includes piping, treatment devices, other accessories, and soil underlying the disposal component of the initial and reserve areas, for on-site wastewater treatment under three thousand five hundred gallons per day when not connected to a public sewer system.

(10) "Practice of engineering" has the meaning set forth in RCW 18.43.020(5).

**Sec. 16.** RCW 18.210.050 and 2011 c 256 s 4 are each amended to read as follows:

The (~~(director)~~) board may:

(1) Employ administrative, clerical, and investigative staff as necessary to administer and enforce this chapter;

(2) Establish fees for applications, examinations, and renewals

in accordance with chapter (~~(43.24)~~) 18.43 RCW;

(3) Issue licenses to applicants who meet the requirements of this chapter; and

(4) Exercise rule-making authority to implement this section.

**Sec. 17.** RCW 18.210.120 and 2011 c 256 s 7 are each amended to read as follows:

(1) Application for licensure must be on forms prescribed by the board and furnished by the director. The application must contain statements, made under oath, demonstrating the applicant's education and work experience.

(2) Applicants shall provide not less than two verifications of experience. Verifications of experience may be provided by licensed professional engineers, licensed on-site wastewater treatment system designers, or state/local regulatory officials in the on-site wastewater treatment field who have direct knowledge of the applicant's qualifications to practice in accordance with this chapter and who can verify the applicant's work experience.

(3) The (~~(director, as provided in RCW 43.24.086)~~) board, shall determine an application fee for licensure as an on-site wastewater treatment system designer. A nonrefundable application fee must accompany the application. The (~~(director)~~) board shall ensure that the application fee includes the cost of the examination and the cost issuance of a license and certificate. A candidate who fails an examination may apply for reexamination. The (~~(director)~~) board shall determine the fee for reexamination.

**Sec. 18.** RCW 18.210.140 and 2011 c 256 s 8 are each amended to read as follows:

(1) Licenses and certificates issued under this chapter are valid for a period of time as determined by the (~~(director)~~) board and may be renewed under the conditions described in this chapter. An expired license or certificate is invalid and must be renewed. Any licensee or certificate holder who fails to pay the renewal fee within ninety days following the date of expiration shall be assessed a penalty fee as determined by the (~~(director)~~) board and must pay the penalty fee and the base renewal fee before the license or certificate may be renewed.

(2) Any license issued under this chapter that is not renewed within two years of its date of expiration must be canceled. Following cancellation, a person seeking to renew must reapply as a new applicant under this chapter.

(3) The (~~(director, as provided in RCW 43.24.086,)~~) board shall determine the fee for applications and for renewals of licenses and certificates issued under this chapter. For determining renewal fees, the pool of licensees and certificate holders under this chapter must be combined with the licensees established in chapter 18.43 RCW.

**Sec. 19.** RCW 18.43.035 and 2002 c 86 s 224 are each amended to read as follows:

(1) The board may adopt and amend bylaws establishing its organization and method of operation, including but not limited to meetings, maintenance of books and records, publication of reports, code of ethics, and rosters, and adoption and use of a seal.

(2) Four members of the board shall constitute a quorum for the conduct of any business of the board.

(3) The governor shall appoint an executive director of the board. The executive director must hold a valid Washington license as a professional engineer or professional land surveyor.

(4) The board may employ such persons as are necessary to carry out its duties under this chapter.

(5) It may adopt rules reasonably necessary to administer the provisions of this chapter. The board shall submit to the governor (~~(such)~~) periodic reports as may be required. A roster, showing the names and places of business of all registered professional engineers and land surveyors may be published for distribution,

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upon request, to professional engineers and land surveyors registered under this chapter and to the public.

**Sec. 20.** RCW 70.118.120 and 1999 c 263 s 22 are each amended to read as follows:

(1) The local board of health shall ensure that individuals who conduct inspections of on-site wastewater treatment systems or who otherwise conduct reviews of such systems are qualified in the technology and application of on-site sewage treatment principles. A certificate of competency issued by the ~~((department of licensing))~~ state board of registration for professional engineers and land surveyors is adequate demonstration that an individual is competent in the engineering aspects of on-site wastewater treatment system technology.

(2) A local board of health may allow noncertified individuals to review designs of, and conduct inspections of, on-site wastewater treatment systems for a maximum of two years after the date of hire, if a certified individual reviews or supervises the work during that time.

**Sec. 21.** RCW 18.235.010 and 2017 c 281 s 36 are each amended to read as follows:

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

(1) "Board" means those boards specified in RCW 18.235.020(2)(b).

(2) "Department" means the department of licensing.

(3)(a) "Director" means the:

(i) Executive director of the state board of registration for professional engineers and land surveyors for matters under the authority of the state board of registration for professional engineers and land surveyors established under chapter 18.43 RCW; or

(ii) Director of the department or the director's designee in all other contexts.

(b) The director of the department has no authority under this chapter over the state board of registration for professional engineers and land surveyors.

(4) "Disciplinary action" means sanctions identified in RCW 18.235.110.

(5) "Disciplinary authority" means the director, board, or commission having the authority to take disciplinary action against a holder of, or applicant for, a professional or business license upon a finding of a violation of this chapter or a chapter specified under RCW 18.235.020.

(6) "License," "licensing," and "licensure" are deemed equivalent to the terms "license," "licensing," "licensure," "certificate," "certification," and "registration" as those terms are defined in RCW 18.118.020. Each of these terms, and the term "commission" under chapter 42.45 RCW, are interchangeable under the provisions of this chapter.

(7) "Unlicensed practice" means:

(a) Practicing a profession or operating a business identified in RCW 18.235.020 without holding a valid, unexpired, unrevoked, and unsuspended license to do so; or

(b) Representing to a person, through offerings, advertisements, or use of a professional title or designation, that the individual or business is qualified to practice a profession or operate a business identified in RCW 18.235.020 without holding a valid, unexpired, unrevoked, and unsuspended license to do so.

**Sec. 22.** RCW 18.210.200 and 1999 c 263 s 21 are each amended to read as follows:

(1) The board shall set fees at a level adequate to pay the costs of administering this chapter. All fees and fines collected under this chapter shall be paid into the professional engineers' account established under RCW 18.43.150. Moneys in the account may

be spent only after appropriation and must be used to carry out all the purposes and provisions of this chapter and chapter 18.43 RCW, including the cost of administering this chapter.

(2) The director shall biennially prepare a budget request based on the anticipated cost of administering licensing and certification activities. The budget request shall include the estimated income from fees contained in this chapter.

**NEW SECTION. Sec. 23.** A new section is added to chapter 18.43 RCW to read as follows:

The department of licensing, through an interagency agreement with the board, must provide specified administrative staff support and associated technical services, materials, and equipment to the board. The initial interagency agreement must be for a term of three years and may be renewed by mutual agreement between the department of licensing and the board."

On page 1, line 3 of the title, after "cosmetology;" strike the remainder of the title and insert "amending RCW 18.11.085, 18.11.095, 18.43.130, 18.85.171, 18.43.050, 18.39.070, 18.16.030, 18.43.020, 18.43.060, 18.43.070, 18.43.080, 18.43.100, 18.43.110, 18.43.150, 18.210.010, 18.210.050, 18.210.120, 18.210.140, 18.43.035, 70.118.120, 18.235.010, and 18.210.200; and adding a new section to chapter 18.43 RCW."

Senator Van De Wege spoke in favor of adoption of the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of striking amendment no. 540 by Senator Van De Wege to House Bill No. 1176.

The motion by Senator Van De Wege carried and striking amendment no. 540 was adopted by voice vote.

MOTION

On motion of Senator Saldaña, the rules were suspended, House Bill No. 1176 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Saldaña and King spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 1176 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1176 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Erickson, Fortunato, Froct, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Voting nay: Senator Hasegawa

Excused: Senators McCoy, Mullet and Wilson, L.

HOUSE BILL NO. 1176, as amended by the Senate, 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.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1355, by House Committee on College & Workforce Development (originally sponsored by Ortiz-Self, Orwall, Ryu, Sells, Macri, Entenman, Stonier, Valdez, Frame, Gregerson, Tarleton, Doglio, Dolan, Appleton, Bergquist, Slatter, Goodman, Pollet and Santos)

Establishing staffing standards and ratios for counselors in community and technical colleges. Revised for 1st Substitute: Concerning staffing standards and ratios for counselors in community and technical colleges.

The measure was read the second time.

#### MOTION

Senator Holy moved that the following amendment no. 568 by Senator Holy be adopted:

On page 1, line 7, after "of" insert "mental health"  
 On page 2, line 14, after "for" insert "mental health"  
 On page 2, line 17, after "for" insert "mental health"  
 On page 2, line 20, after "of" insert "mental health"  
 On page 2, line 22, after "equivalent" insert "mental health"  
 On page 2, line 30, after "college's" strike all material through "ratio" and insert "ratio of students to mental health counselors"

Senator Holy spoke in favor of adoption of the amendment.

Senator Palumbo spoke against adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 568 by Senator Holy on page 1, line 7 to Engrossed Substitute House Bill No. 1355.

The motion by Senator Holy did not carry and amendment no. 568 was not adopted by voice vote.

#### MOTION

On motion of Senator Palumbo, the rules were suspended, Engrossed Substitute House Bill No. 1355 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Palumbo spoke in favor of passage of the bill.

Senator Holy spoke against passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1355.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1355 and the bill passed the Senate by the following vote: Yeas, 30; Nays, 16; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Honeyford, Hunt, Keiser, Kuderer, Lias, Lovelett, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Walsh, Warnick, Wellman and Wilson, C.

Voting nay: Senators Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Holy, King, O'Ban, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner and Zeiger

Excused: Senators McCoy, Mullet and Wilson, L.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1355, 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.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1817, by House Committee on Labor & Workplace Standards (originally sponsored by Sells, Chapman, Gregerson, Ormsby and Morgan)

Ensuring for a skilled and trained workforce in high hazard facilities.

The measure was read the second time.

#### MOTION

Senator Conway moved that the following committee striking amendment by the Committee on Labor & Commerce be adopted:

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) "Apprenticeable occupation" means an occupation for which an apprenticeship program has been approved by the Washington state apprenticeship and training council pursuant to chapter 49.04 RCW.

(2) "Department" means the department of labor and industries.

(3) "On-site work" does not include ship and rail car support activities; environmental inspection and testing; security guard services; work which is performed by an original equipment manufacturer for warranty, repair, or maintenance on the vendor's equipment if required by the original equipment manufacturer's warranty agreement between the original equipment manufacturer and the owner; industrial cleaning not related to construction; safety services requiring professional safety certification; nonconstruction catalyst loading, regeneration, and removal; chemical purging and cleaning; refinery byproduct separation and recovery; inspection services not related to construction; and work performed that is not in an apprenticeable occupation.

(4) "Prevailing hourly wage rate" has the meaning provided for "prevailing rate of wage" in RCW 39.12.010.

(5) "Registered apprentice" means an apprentice registered in an apprenticeship program approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW.

(6) "Skilled and trained workforce" means a workforce that meets both of the following criteria:

(a) All the workers are either registered apprentices or skilled journeypersons; and

(b) The workforce meets the apprenticeship graduation and approved advanced safety training requirements established in section 3 of this act.

(7) "Skilled journeyman" means a worker who meets all of the following criteria:

(a) The worker either graduated from an apprenticeship program for the applicable occupation that was approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW, or has at least as many hours of on-the-job experience in the applicable occupation that would be required to graduate from an apprenticeship program approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW; and

(b) The worker is being paid at least a rate consistent with the prevailing hourly wage rate for a journeyman in the applicable

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occupation and geographic area.

**NEW SECTION. Sec. 2.** (1) An owner or operator of a stationary source that is engaged in activities described in code 324110 or 325110 of the North American industry classification system, when contracting for the performance of construction, alteration, demolition, installation, repair, or maintenance work at the stationary source, shall require that its contractors and any subcontractors use a skilled and trained workforce to perform all onsite work within an apprenticeable occupation in the building and construction trades. This section shall not apply to oil and gas extraction operations.

(2)(a) The department in consultation with the Washington state apprenticeship and training council shall approve a curriculum of in-person classroom and laboratory instruction for approved advanced safety training for workers at high hazard facilities.

(b) The safety training must be provided by a training provider, which may include a registered apprenticeship program, approved by the department. The department must periodically review and revise the curriculum to reflect current best practices.

(c) Upon receipt of certification from the approved training provider, the department must issue a certificate to a worker who completes the approved curriculum.

(d) The department may accept a certificate or other documentation issued by another state if the department finds that the curriculum and documentation of the other state meets the requirements of this subsection.

(3) This section applies to work performed under contracts awarded, contract extensions, and contract renewals occurring on or after the effective date of this section. This section shall also apply to work performed under a contract awarded before the effective date of this section if the work is performed more than one year after the effective date of this section.

(4) This section does not apply to:

(a) The employees of the owner or operator of the stationary source, nor does it prevent the owner or operator of the stationary source from using its own employees to perform any work that has not been assigned to contractors while the employees of the contractor are present and working;

(b) A contractor who has requested qualified workers from the local hiring halls or apprenticeship programs that dispatch workers in the apprenticeable occupation and who, due to workforce shortages, is unable to obtain sufficient qualified workers within forty-eight hours of the request, Saturdays, Sundays, and holidays excepted; and

(c) Emergencies that make compliance impracticable because they require immediate action to prevent harm to public health or safety or to the environment. This section applies as soon as the emergency is over or it becomes practicable for contractors to obtain a qualified workforce.

(5) The requirements under subsection (1) of this section apply to each individual contractor's and subcontractor's on-site workforce.

(6) The requirements of this section do not make the work described in subsection (1) of this section a public work within the meaning of RCW 39.04.010.

**NEW SECTION. Sec. 3.** The following implementation schedule must be complied with to meet the requirements of section 2 of this act for a skilled and trained workforce to perform all on-site work within an apprenticeable occupation in the building and construction trades:

(1)(a) By January 1, 2021, at least twenty percent of the skilled journeypersons must be graduates of an apprenticeship program for the applicable occupation approved by the Washington state

apprenticeship and training council under chapter 49.04 RCW;

(b) By January 1, 2022, at least thirty-five percent of the skilled journeypersons must be graduates of an apprenticeship program for the applicable occupation approved by the Washington state apprenticeship and training council under chapter 49.04 RCW;

(c) By January 1, 2023, at least forty-five percent of the skilled journeypersons must be graduates of an apprenticeship program for the applicable occupation approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW; and

(d) By January 1, 2024, at least sixty percent of the skilled journeypersons must be graduates of an apprenticeship program for the applicable occupation approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW; and

(2) By January 1, 2022, all workers in the skilled and trained workforce must have completed within the past three calendar years at least twenty hours of approved advanced safety training for workers at high hazard facilities.

**NEW SECTION. Sec. 4.** (1) Failure to comply with the skilled and trained workforce requirements of this chapter, except the requirement that a worker be paid at least a rate consistent with the prevailing hourly wage rate, constitutes a violation of chapter 49.17 RCW.

(2) The prevailing hourly wage rate requirement of this chapter constitutes a wage payment requirement as defined in RCW 49.48.082.

**NEW SECTION. Sec. 5.** (1) The department in consultation with the Washington state apprenticeship and training council shall prioritize consideration of new apprenticeship programs for workers in high hazard facilities. The Washington state apprenticeship and training council shall issue a decision within six months of the acceptance of a completed application for consideration of a new state registered apprenticeship program for workers in high hazard facilities.

(2) This section expires December 31, 2023.

**NEW SECTION. Sec. 6.** The department may adopt rules necessary to implement this chapter.

**NEW SECTION. Sec. 7.** Sections 1 through 6 and 8 of this act constitute a new chapter in Title 49 RCW.

**NEW SECTION. Sec. 8.** This act takes effect January 1, 2020."

On page 1, line 2 of the title, after "facilities;" strike the remainder of the title and insert "adding a new chapter to Title 49 RCW; prescribing penalties; providing an effective date; and providing an expiration date."

#### MOTION

Senator Ericksen moved that the following amendment no. 430 by Senator Ericksen be adopted:

On page 1, after line 2, insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that the men and women who work in Washington's petroleum refining industry are a highly valued part of our state's workforce, and essential contributors to Washington's economy. The legislature further finds that the petroleum refining industry is an anchor industry, which should be supported, continued, and preserved. The legislature also recognizes that the petroleum refining industry in Washington has an impeccable safety record, provides outstanding family-wage jobs, and represents the best of Washington industry."

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

Senators Ericksen and Schoesler spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Wellman spoke against adoption of the amendment to the committee striking amendment.

#### POINT OF ORDER

Senator Liias: "Madam President, the Minority Leader has referred to this bill as 'attacking' which I believe is calling into question the motives of the sponsors of the bill which are to regulate this dangerous activity not to attack anyone."

#### RULING BY THE PRESIDENT PRO TEMPORE

President Pro Tempore Keiser: "Your Point is well-taken. Senator Schoesler would you speak to the intent section that is no longer in this bill?"

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 430 by Senator Ericksen on page 1, after line 2 to Engrossed Substitute House Bill No. 1817.

The motion by Senator Ericksen did not carry and amendment no. 430 was not adopted by voice vote.

#### MOTION

Senator Ericksen moved that the following amendment no. 423 by Senator Ericksen be adopted:

Beginning on page 1, line 3, after "**Sec. 1.**" strike all material through "2020" on page 5, line 3 and insert "(1) The department of labor and industries must convene a work group to study the safety of workers at high hazard facilities in Washington.

(2) The department of labor and industries must appoint members to the work group. The members of the work group must include:

(a) One representative from the department of labor and industries, who must chair the work group;

(b) At least one representative of an owner or operator of a high hazard facility, or a representative from a trade association that represents such owners or operators;

(c) At least one representative of a contractor that performs work at high hazard facilities, or a representative from an association that represents such contractors;

(d) At least one representative from a labor organization; and

(e) Up to three additional members.

(3) The work group must review the following:

(a) Current data regarding worker safety for both employees and contractors who perform work at high hazard facilities;

(b) Current state and federal data regarding apprenticeship programs for workers who perform work at high hazard facilities;

(c) The engineering news-record ratings for contractors who perform work at high hazard facilities;

(d) A comparison between Washington and other states regarding (a) through (c) of this subsection, as well as best practices in other states for ensuring safety at high hazard facilities.

(4) The department of labor and industries must convene the meetings and provide staff support to the work group.

(5) The work group must submit a report to the appropriate committees of the legislature with its findings and

recommendations for improving the safety of workers at high hazard facilities by December 1, 2019.

(6) For the purposes of this section, "high hazard facility" means any stationary source that is engaged in activities described in code 324110 or 325110 of the North American industry classification system.

(7) This section expires June 30, 2020"

On page 5, line 5, after "insert" strike "adding a new chapter to Title 49 RCW; prescribing penalties; providing an effective date;" and insert "creating a new section;"

#### POINT OF ORDER

Senator Ericksen: "Thank you Madam President. You were the prime sponsor of the Senate version of this bill so I'd like to ask if you are able to preside over this particular hearing, or this particular vote tonight in a non-biased fashion as we move forward."

#### RULING BY THE PRESIDENT PRO TEMPORE

President Pro Tempore Keiser: "I believe I am going to preside in a non-biased fashion. Would you like to speak to your amendment now?"

Senator Ericksen spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Saldaña spoke against adoption of the amendment to the committee striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 423 by Senator Ericksen on page 1, line 3 to Engrossed Substitute House Bill No. 1817.

The motion by Senator Ericksen did not carry and amendment no. 423 was not adopted by voice vote.

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Ericksen and without objection, amendment no. 513 by Senator Ericksen on page 1, line 7 to Engrossed Substitute House Bill No. 1817 was withdrawn.

#### MOTION

Senator Ericksen moved that the following amendment no. 424 by Senator Ericksen be adopted:

On page 1, line 10, after "(3)" insert ""Embedded contractor" means a contractor that has maintained a contract with an owner or operator of a stationary source that is engaged in activities described in code 324110 or 325110 of the North American industry classification system for at least ten years prior to the effective date of this section and has maintained an experience modification factor under one.

(4)"

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

On page 1, at the beginning of line 28, strike "both of"

On page 1, line 29, after "(a)" insert "(i)"

On page 2, at the beginning of line 1, strike "(b)" and insert "(ii)"

On page 2, line 3, after "act" insert "; or

(b) The workers are employed by an embedded contractor"

Senator Ericksen spoke in favor of adoption of the amendment to the committee striking amendment.

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Senator Conway spoke against adoption of the amendment to the committee striking amendment.

and trained workforce requirements of this chapter constitutes a violation of chapter 49.17 RCW."

## POINT OF ORDER

Senator Short: "Madam President, we've already talked out dilatory things and pointing out, casting aspersions. I think the good gentleman might have been doing that with the previous speaker."

Senators Ericksen, Padden and Fortunato spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Conway spoke against adoption of the amendment to the committee striking amendment.

## RULING BY THE PRESIDENT PRO TEMPORE

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 517 by Senator Ericksen on page 1, line 22 to Engrossed Substitute House Bill No. 1817.

President Habib: "Duly noted."

The motion by Senator Ericksen did not carry and amendment no. 517 was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of amendment no. 424 by Senator Ericksen on page 1, line 10 to Engrossed Substitute House Bill No. 1817.

## MOTION

The motion by Senator Ericksen did not carry and amendment no. 424 was not adopted by voice vote.

Senator Ericksen moved that the following amendment no. 432 by Senator Ericksen be adopted:

## MOTION

Senator Ericksen moved that the following amendment no. 431 by Senator Ericksen be adopted:

On page 1, line 23, after "39.12.010." insert "To establish the prevailing wage for the trades covered under this bill, the department must use wage and hour surveys and use stratified random sampling by sending wage surveys to thirty percent of those eligible survey recipients in each trade or occupation. The department must use a random method to select the recipients of the survey in each trade or occupation."

On page 1, after line 12, strike all of subsection (3), and insert the following:

"(3) "On-site work" includes all work done within the boundaries of any permitted job site performed by an employee of any general contractor or subcontractor, owner or operator of a stationary source, or other employee.

Senator Ericksen spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Saldaña spoke against adoption of the amendment to the committee striking amendment.

Senator Ericksen spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of amendment no. 432 by Senator Ericksen on page 1, line 23 to Engrossed Substitute House Bill No. 1817.

Senator Saldaña spoke against adoption of the amendment to the committee striking amendment.

The motion by Senator Ericksen did not carry and amendment no. 432 was not adopted by voice vote.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 431 by Senator Ericksen on page 1, after line 12 to Engrossed Substitute House Bill No. 1817.

## MOTION

The motion by Senator Ericksen did not carry and amendment no. 431 was not adopted by voice vote.

Senator Ericksen moved that the following amendment no. 514 by Senator Ericksen be adopted:

## MOTION

Senator Ericksen moved that the following amendment no. 517 by Senator Ericksen be adopted:

On page 1, line 23, after "39.12.010" insert "except, for the purposes of this chapter, the department must establish the prevailing wage using the local wages paid in the county of the project rather than collective bargaining agreements"

On page 1, beginning on line 22, after "(4)" strike all material through "(5)" on line 24

Senator Ericksen spoke in favor of adoption of the amendment to the committee striking amendment.

Re-number the remaining subsections consecutively and correct any internal references accordingly.

Senator Saldaña spoke against adoption of the amendment to the committee striking amendment.

On page 2, beginning on line 4, after "(7)" strike all material through "area." on line 16 and insert ""Skilled journey person" means a worker who has either graduated from an apprenticeship program for the applicable occupation that was approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW, or has at least as many hours of on-the-job experience in the applicable occupation that would be required to graduate from an apprenticeship program approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW."

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 514 by Senator Ericksen on page 1, line 23 to Engrossed Substitute House Bill No. 1817.

The motion by Senator Ericksen did not carry and amendment no. 514 was not adopted by voice vote.

## MOTION

On page 4, beginning on line 18, strike all of section 4 and insert the following:

Senator Ericksen moved that the following amendment no. 571 by Senator Ericksen be adopted:

**NEW SECTION. Sec. 4.** Failure to comply with the skilled

On page 1, line 26, after "RCW" insert "or, if the Washington state apprenticeship and training council denies approval of an

apprenticeship program for a contractor who performs work at a facility described in section 2(1) of this act, a federally approved apprenticeship program"

On page 2, line 6, after "(a)" strike all material through "RCW" on line 12 and insert "(i) The worker has graduated from an apprenticeship program for the applicable occupation that was approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW or, if the Washington state apprenticeship and training council denies approval of an apprenticeship program for a contractor who performs work at a facility described in section 2(1) of this act, a federally approved apprenticeship program; or

(ii) The worker has at least as many hours of on-the-job experience in the applicable occupation that would be required to graduate from an apprenticeship program approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW"

On page 3, line 31, after "Sec. 3." insert "(1)"

On page 3, at the beginning of line 36, strike "(1)(a)" and insert "(a)(i)"

On page 4, at the beginning of line 1, strike "(b)" and insert "(ii)"

On page 4, at the beginning of line 5, strike "(c)" and insert "(iii)"

On page 4, at the beginning of line 10, strike "(d)" and insert "(iv)"

On page 4, at the beginning of line 14, strike "(2)" and insert "(b)"

On page 4, after line 17, insert the following:

"(2) If the Washington state apprenticeship and training council denies approval of an apprenticeship program for a contractor who performs work at a facility described in section 2(1) of this act, workers who graduate from federally approved apprenticeship programs in the applicable occupation satisfy the apprenticeship graduation requirements of subsection (1)(a) of this section."

Senator Ericksen spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Conway spoke against adoption of the amendment to the committee striking amendment.

Senator Ericksen demanded a roll call.

The President Pro Tempore declared that one-sixth of the members supported the demand and the demand was sustained.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator Ericksen on page 1, line 26 to Engrossed Substitute House Bill No. 1817.

#### ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Ericksen and the amendment was not adopted by the following vote: Yeas, 20; Nays, 24; Absent, 2; Excused, 3.

Voting yea: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Honeyford, King, Lovelett, O'Ban, Padden, Rivers, Schoesler, Short, Takko, Wagoner, Walsh, Warnick and Zeiger

Voting nay: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Van De Wege, Wellman and Wilson, C.

Absent: Senators Holy and Sheldon

Excused: Senators McCoy, Mullet and Wilson, L.

#### WITHDRAWAL OF AMENDMENTS

On motion of Senator Ericksen and without objection, the following amendments by Senator Ericksen to Engrossed Substitute House Bill No. 1817 were withdrawn:

amendment no. 442 by Senator Ericksen on page 1, line 29; amendment no. 515 by Senator Ericksen on page 1, line 29; amendment no. 516 by Senator Ericksen on page 1, line 29; amendment no. 440 by Senator Ericksen on page 2, line 7; amendment no. 448 by Senator Ericksen on page 2, line 9; amendment no. 559 by Senator Ericksen on page 2, line 9; amendment no. 433 by Senator Ericksen on page 2, line 15; amendment no. 441 by Senator Ericksen on page 2, line 16; amendment no. 560 by Senator Ericksen on page 2, line 27; amendment no. 518 by Senator Ericksen on page 2, line 30; amendment no. 521 by Senator Ericksen on page 2, line 33; amendment no. 443 by Senator Ericksen on page 2, line 34; amendment no. 522 by Senator Ericksen on page 2, line 34; amendment no. 561 by Senator Ericksen on page 2, line 35; amendment no. 562 by Senator Ericksen on page 2, line 36; amendment no. 563 by Senator Ericksen on page 2, line 38; amendment no. 564 by Senator Ericksen on page 3, line 5; amendment no. 523 by Senator Ericksen on page 3, line 8; amendment no. 565 by Senator Ericksen on page 3, line 10; amendment no. 566 by Senator Ericksen on page 3, line 14; amendment no. 449 by Senator Ericksen on page 3, line 18; amendment no. 524 by Senator Ericksen on page 3, line 36; amendment no. 525 by Senator Ericksen on page 3, line 36; amendment no. 425 by Senator Ericksen on page 3, line 38; amendment no. 426 by Senator Ericksen on page 3, line 39; amendment no. 427 by Senator Ericksen on page 4, line 13; amendment no. 434 by Senator Ericksen on page 4, line 30; amendment no. 435 by Senator Ericksen on page 4, line 32; amendment no. 436 by Senator Ericksen on page 4, line 34; amendment no. 444 by Senator Ericksen on page 5, line 1; amendment no. 437 by Senator Ericksen on page 5, line 2; amendment no. 445 by Senator Ericksen on page 5, line 2; amendment no. 450 by Senator Ericksen on page 5, line 2; amendment no. 526 by Senator Ericksen on page 5, line 2; amendment no. 527 by Senator Ericksen on page 5, line 2; amendment no. 528 by Senator Ericksen on page 5, line 2; amendment no. 529 by Senator Ericksen on page 5, line 2; amendment no. 438 by Senator Ericksen on page 5, line 3; amendment no. 439 by Senator Ericksen on page 5, line 3; amendment no. 451 by Senator Ericksen on page 5, line 3; and amendment no. 567 by Senator Ericksen on page 5, line 3.

#### MOTION

Senator King moved that the following amendment no. 569 by Senator King be adopted:

On page 2, line 14, after "(b)" strike all of the material through "area." on line 16 and insert "The worker is being paid at least a rate commensurate with the wages typically paid for the occupation in the applicable geographic area, subject to the following provisions:

(i) The prevailing wage rate paid for a worker in the applicable occupation and geographic area on public works projects may be used to determine the appropriate rate of pay, however, this subsection (7)(b) does not require a contractor to pay prevailing wage rates; and

(ii) In no case may the worker be paid at a rate less than an hourly rate consistent with the seventy-fifth percentile in the applicable occupation and geographic area in the most recent occupational employment statistics published by the employment security department."



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On page 4, beginning on line 18, strike all of section 4 and insert the following:

**"NEW SECTION. Sec. 4.** (1) Failure to comply with the skilled and trained workforce requirements of this chapter, except the requirement that a worker be paid at a rate commensurate with wages typically paid for the occupation, constitutes a violation of chapter 49.17 RCW.

(2) The wage rate requirement of section 1(7)(b) of this act constitutes a wage payment requirement as defined in RCW 49.48.082."

Senators King and Conway spoke in favor of adoption of the amendment to the committee striking amendment.

MOTION

On motion of Senator Rivers, Senator Sheldon was excused.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 569 by Senator King on page 2, line 14 to Engrossed Substitute House Bill No. 1817.

The motion by Senator King carried and amendment no. 569 was adopted by voice vote.

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Labor & Commerce as amended to Engrossed Substitute House Bill No. 1817.

The motion by Senator Conway carried and the committee striking amendment as amended was adopted by voice vote.

MOTION

On motion of Senator Conway, the rules were suspended, Engrossed Substitute House Bill No. 1817 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Conway, King and Wellman spoke in favor of passage of the bill.

Senators Fortunato and Ericksen spoke against passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1817 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1817 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 29; Nays, 16; Absent, 0; Excused, 4.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Froctt, Hasegawa, Hobbs, Holy, Hunt, Keiser, King, Kuderer, Lias, Lovelett, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Wellman, Wilson, C. and Zeiger

Voting nay: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Honeyford, O'Ban, Padden, Rivers, Schoesler, Short, Wagoner, Walsh and Warnick

Excused: Senators McCoy, Mullet, Sheldon and Wilson, L.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1817, as amended by the Senate, 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 Wilson, C., Senator Conway was excused.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1742, by House Committee on Human Services & Early Learning (originally sponsored by Frame, Eslick, Senn, Griffey, Kilduff, Corry, Appleton, Sells, Walen, Wylie, Doglio, Stanford, Robinson, Macri and Davis)

Concerning juvenile offenses that involve depictions of minors.

The measure was read the second time.

MOTION

Senator Padden moved that the following striking amendment no. 570 by Senator Padden be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** This act may be known and cited as the responsible teen communications act.

**NEW SECTION. Sec. 2.** A new section is added to chapter 13.40 RCW to read as follows:

(1) The legislature finds that exchange of intimate images by minors is increasingly common, and that such actions may lead to harm and long-term consequences. The legislature intends to develop age-appropriate prevention and interventions to prevent harm and to hold accountable youth who harm others through exchange of intimate images.

(2) The Washington coalition of sexual assault programs, in consultation with the office of the superintendent of public instruction, the Washington association for the treatment of sexual abusers, the department of children, youth, and families, the department of social and health services, the juvenile court administrators, the Washington association of prosecuting attorneys, representatives from public defense, youth representatives, and other relevant stakeholders, shall convene a work group to make recommendations to the legislature regarding age-appropriate prevention and intervention strategies to address potential harms caused by exchange of intimate images by minors.

(3) By December 1, 2019, the work group shall make a report to the legislature identifying education, prevention, and other responses to the harms that may be associated with exchange of intimate images by minors.

**Sec. 3.** RCW 9.68A.050 and 2017 c 126 s 3 are each amended to read as follows:

(1)(a) A person eighteen years of age or older commits the crime of dealing in depictions of a minor engaged in sexually explicit conduct in the first degree when he or she:

(i) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells a visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e); or

(ii) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that

depicts a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e).

(b) Dealing in depictions of a minor engaged in sexually explicit conduct in the first degree is a class B felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each depiction or image of visual or printed matter constitutes a separate offense.

(2)(a) A person eighteen years of age or older commits the crime of dealing in depictions of a minor engaged in sexually explicit conduct in the second degree when he or she:

(i) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells any visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g); or

(ii) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g).

(b) Dealing in depictions of a minor engaged in sexually explicit conduct in the second degree is a class B felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each incident of dealing in one or more depictions or images of visual or printed matter constitutes a separate offense.

**NEW SECTION. Sec. 4.** A new section is added to chapter 9.68A RCW to read as follows:

(1)(a)(i) A person under the age of eighteen commits the crime of a minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the first degree when he or she knowingly distributes, publishes, transfers, disseminates, or exchanges a visual or printed matter that depicts another minor thirteen years of age or older engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e).

(ii) Minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the first degree is a class B felony punishable under chapter 9A.20 RCW.

(b)(i) A person under the age of eighteen commits the crime of a minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the second degree when he or she knowingly distributes, publishes, transfers, disseminates, or exchanges a visual or printed matter that depicts another minor thirteen years of age or older engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g).

(ii) Minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the second degree is a gross misdemeanor.

(2)(a) A person under age eighteen commits the crime of minor dealing in depictions of another minor twelve years of age or younger engaged in sexually explicit conduct in the first degree when he or she:

(i) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells a visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e); or

(ii) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e).

(b) Minor dealing in depictions of another minor twelve years of age or younger engaged in sexually explicit conduct in the first degree is a class B felony punishable under chapter 9A.20 RCW.

(3)(a) A person under age eighteen commits the crime of minor dealing in depictions of another minor twelve years of age or younger engaged in sexually explicit conduct in the second degree when he or she:

(i) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells any visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g); or

(ii) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g).

(b) Minor dealing in depictions of a minor twelve years of age or younger engaged in sexually explicit conduct in the second degree is a class B felony punishable under chapter 9A.20 RCW.

(4)(a) Any person under the age of eighteen commits the crime of minor financing or selling depictions of another minor engaged in sexually explicit conduct when he or she finances, attempts to finance, or sells a visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (g).

(b) Minor financing or selling depictions of another minor engaged in sexually explicit conduct is a class B felony punishable under chapter 9A.20 RCW.

(5)(a) A person under the age of eighteen commits the crime of minor selling depictions of himself or herself engaged in sexually explicit conduct when he or she sells a visual or printed matter that depicts himself or herself engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (g).

(b) Minor selling depictions of himself or herself engaged in sexually explicit conduct is a misdemeanor.

(6) This section does not apply to a person under eighteen years of age who finances, attempts to finance, develops, duplicates, publishes, prints, disseminates, exchanges, or possesses a visual or printed matter that depicts himself or herself engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4).

(7) For the purposes of determining the unit of prosecution under this section, each depiction or image of visual or printed matter constitutes a separate offense.

**Sec. 5.** RCW 9.68A.060 and 2017 c 126 s 4 are each amended to read as follows:

(1)(a) A person commits the crime of sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the first degree when he or she knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, a visual or printed matter that depicts a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e).

(b) Sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the first degree is a class B felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each depiction or image of visual or printed matter constitutes a separate offense.

(2)(a) Except as provided in subsections (3) and (4) of this section, a person commits the crime of sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the second degree when he or she knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, any visual or printed matter that depicts a

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minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g).

(b) Sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the second degree is a class B felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each incident of sending or bringing into the state one or more depictions or images of visual or printed matter constitutes a separate offense.

(3) This section does not apply to a minor who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for distribution, visual or printed matter depicting any minor thirteen years of age or older engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g).

(4) This section does not apply to a person under thirteen years of age who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for distribution, visual or printed matter depicting himself or herself engaged in sexually explicit conduct.

**Sec. 6.** RCW 9.68A.070 and 2017 c 126 s 2 are each amended to read as follows:

(1)(a) A person commits the crime of possession of depictions of a minor engaged in sexually explicit conduct in the first degree when he or she knowingly possesses a visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e).

(b) Possession of depictions of a minor engaged in sexually explicit conduct in the first degree is a class B felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each depiction or image of visual or printed matter constitutes a separate offense.

(2)(a) Except as provided in subsections (3) and (4) of this section, a person commits the crime of possession of depictions of a minor engaged in sexually explicit conduct in the second degree when he or she knowingly possesses any visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g).

(b) Possession of depictions of a minor engaged in sexually explicit conduct in the second degree is a class B felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each incident of possession of one or more depictions or images of visual or printed matter constitutes a separate offense.

(3) This section does not apply to a minor's possession of visual or printed matter depicting any minor thirteen years of age or older engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g).

(4) This section does not apply to a person under thirteen years of age in possession of visual or printed matter depicting himself or herself engaged in sexually explicit conduct.

**Sec. 7.** RCW 9.68A.075 and 2010 c 227 s 7 are each amended to read as follows:

(1) A person who intentionally views over the internet visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e) is guilty of viewing depictions of a minor engaged in sexually explicit conduct in the first degree, a class B felony punishable under chapter 9A.20 RCW.

(2) Except as provided in subsections (5) and (6) of this section, a person who intentionally views over the internet visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g) is guilty of

viewing depictions of a minor engaged in sexually explicit conduct in the second degree, a class C felony punishable under chapter 9A.20 RCW.

(3) For the purposes of determining whether a person intentionally viewed over the internet a visual or printed matter depicting a minor engaged in sexually explicit conduct in subsection (1) or (2) of this section, the trier of fact shall consider the title, text, and content of the visual or printed matter, as well as the internet history, search terms, thumbnail images, downloading activity, expert computer forensic testimony, number of visual or printed matter depicting minors engaged in sexually explicit conduct, defendant's access to and control over the electronic device and its contents upon which the visual or printed matter was found, or any other relevant evidence. The state must prove beyond a reasonable doubt that the viewing was initiated by the user of the computer where the viewing occurred.

(4) For the purposes of this section, each separate internet session of intentionally viewing over the internet visual or printed matter depicting a minor engaged in sexually explicit conduct constitutes a separate offense.

(5) This section does not apply to a minor who intentionally views over the internet visual or printed matter depicting a minor thirteen years of age or older engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g).

(6) This section does not apply to a person under thirteen years of age who intentionally views over the internet visual or printed matter depicting himself or herself engaged in sexually explicit conduct.

**Sec. 8.** RCW 13.40.070 and 2018 c 82 s 1 are each amended to read as follows:

(1) Complaints referred to the juvenile court alleging the commission of an offense shall be referred directly to the prosecutor. The prosecutor, upon receipt of a complaint, shall screen the complaint to determine whether:

(a) The alleged facts bring the case within the jurisdiction of the court; and

(b) On a basis of available evidence there is probable cause to believe that the juvenile did commit the offense.

(2) If the identical alleged acts constitute an offense under both the law of this state and an ordinance of any city or county of this state, state law shall govern the prosecutor's screening and charging decision for both filed and diverted cases.

(3) If the requirements of subsection (1)(a) and (b) of this section are met, the prosecutor shall either file an information in juvenile court or divert the case, as set forth in subsections (5), (6), and (8) of this section. If the prosecutor finds that the requirements of subsection (1)(a) and (b) of this section are not met, the prosecutor shall maintain a record, for one year, of such decision and the reasons therefor. In lieu of filing an information or diverting an offense a prosecutor may file a motion to modify community supervision where such offense constitutes a violation of community supervision.

(4) An information shall be a plain, concise, and definite written statement of the essential facts constituting the offense charged. It shall be signed by the prosecuting attorney and conform to chapter 10.37 RCW.

(5) The prosecutor shall file an information with the juvenile court if (a) an alleged offender is accused of an offense that is defined as a sex offense or violent offense under RCW 9.94A.030, other than assault in the second degree or robbery in the second degree; or (b) an alleged offender has been referred by a diversion unit for prosecution or desires prosecution instead of diversion.

(6) Where a case is legally sufficient the prosecutor shall divert the case if the alleged offense is a misdemeanor or gross

misdeemeanor or violation and the alleged offense is the offender's first offense or violation. If the alleged offender is charged with a related offense that may be filed under subsections (5) and (8) of this section, a case under this subsection may also be filed.

(7) Where a case is legally sufficient to charge an alleged offender with:

(a) Either prostitution or prostitution loitering and the alleged offense is the offender's first prostitution or prostitution loitering offense, the prosecutor shall divert the case; ((~~or~~))

(b) Voyeurism in the second degree, the offender is under seventeen years of age, and the alleged offense is the offender's first voyeurism in the second degree offense, the prosecutor shall divert the case, unless the offender has received two diversions for any offense in the previous two years;

(c) A minor selling depictions of himself or herself engaged in sexually explicit conduct under section 4(5) of this act and the alleged offense is the offender's first violation of section 4(5) of this act, the prosecutor shall divert the case;

(d) A distribution, transfer, dissemination, or exchange of sexually explicit images of other minors thirteen years of age or older offense as provided in section 4(1) of this act and the alleged offense is the offender's first violation of section 4(1) of this act, the prosecutor shall divert the case;

(e) A minor who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for distribution, visual or printed matter depicting any minor thirteen years of age or older engaged in sexually explicit conduct under RCW 9.68A.060(1) and the alleged offense is the offender's first violation of RCW 9.68A.060(1), the prosecutor shall divert the case;

(f) A minor in possession of visual or printed matter depicting any minor thirteen years of age or older engaged in sexually explicit conduct under RCW 9.68A.070(1) and the alleged offense is the offender's first violation of RCW 9.68A.070(1), the prosecutor shall divert the case; or

(g) A minor who intentionally views over the internet visual or printed matter depicting a minor thirteen years of age or older engaged in sexually explicit conduct under RCW 9.68A.075(1) and the alleged offense is the offender's first violation of RCW 9.68A.075(1), the prosecutor shall divert the case.

(8) Where a case is legally sufficient and falls into neither subsection (5) nor (6) of this section, it may be filed or diverted. In deciding whether to file or divert an offense under this section the prosecutor may be guided by the length, seriousness, and recency of the alleged offender's criminal history and the circumstances surrounding the commission of the alleged offense.

(9) Whenever a juvenile is placed in custody or, where not placed in custody, referred to a diversion interview, the parent or legal guardian of the juvenile shall be notified as soon as possible concerning the allegation made against the juvenile and the current status of the juvenile. Where a case involves victims of crimes against persons or victims whose property has not been recovered at the time a juvenile is referred to a diversion unit, the victim shall be notified of the referral and informed how to contact the unit.

(10) The responsibilities of the prosecutor under subsections (1) through (9) of this section may be performed by a juvenile court probation counselor for any complaint referred to the court alleging the commission of an offense which would not be a felony if committed by an adult, if the prosecutor has given sufficient written notice to the juvenile court that the prosecutor will not review such complaints.

(11) The prosecutor, juvenile court probation counselor, or diversion unit may, in exercising their authority under this section or RCW 13.40.080, refer juveniles to community-based programs, restorative justice programs, mediation, or victim

offender reconciliation programs. Such mediation or victim offender reconciliation programs shall be voluntary for victims.

(12) Prosecutors and juvenile courts are encouraged to engage with and partner with community-based programs to expand, improve, and increase options to divert youth from formal processing in juvenile court. Nothing in this chapter should be read to limit partnership with community-based programs to create diversion opportunities for juveniles.

**NEW SECTION. Sec. 9.** A new section is added to chapter 9.68A RCW to read as follows:

A minor who possesses any depiction or depictions of any other minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011 forfeits any right to continued possession of the depiction or depictions and any court exercising jurisdiction over such depiction or depictions shall order forfeiture of the depiction or depictions to the custody of law enforcement.

**NEW SECTION. Sec. 10.** A new section is added to chapter 9A.86 RCW to read as follows:

A minor who possesses any image of any other minor which constitutes an intimate image as defined in RCW 9A.86.010 forfeits any right to continued possession of the image and any court exercising jurisdiction over such image shall order forfeiture of the image."

On page 1, line 2 of the title, after "minors;" strike the remainder of the title and insert "amending RCW 9.68A.050, 9.68A.060, 9.68A.070, 9.68A.075, and 13.40.070; adding a new section to chapter 13.40 RCW; adding new sections to chapter 9.68A RCW; adding a new section to chapter 9A.86 RCW; creating a new section; and prescribing penalties."

Senator Padden spoke in favor of adoption of the striking amendment.

Senator Dhingra spoke against adoption of the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of striking amendment no. 570 by Senator Padden to Substitute House Bill No. 1742.

The motion by Senator Padden did not carry and striking amendment no. 570 was not adopted by voice vote.

#### MOTION

On motion of Senator Pedersen, the rules were suspended, Substitute House Bill No. 1742 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pedersen and Dhingra spoke in favor of passage of the bill.

Senators Padden, O'Ban and Fortunato spoke against passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 1742.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1742 and the bill passed the Senate by the following vote: Yeas, 25; Nays, 19; Absent, 0; Excused, 5.

Voting yea: Senators Billig, Carlyle, Cleveland, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Wellman and Wilson, C.

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Voting nay: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Holy, Honeyford, King, O'Ban, Padden, Rivers, Schoesler, Short, Wagoner, Walsh, Warnick and Zeiger  
 Excused: Senators Conway, McCoy, Mullet, Sheldon and Wilson, L.

SENATE BILL NO. 5177,  
 SENATE BILL NO. 5207,  
 SENATE BILL NO. 5230,  
 SUBSTITUTE SENATE BILL NO. 5265,  
 SUBSTITUTE SENATE BILL NO. 5355,  
 SENATE BILL NO. 5398,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5480,  
 SUBSTITUTE SENATE BILL NO. 5588,  
 SUBSTITUTE SENATE BILL NO. 5710,  
 and SENATE BILL NO. 5895.

SUBSTITUTE HOUSE BILL NO. 1742, 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.

PERSONAL PRIVILEGE

SECOND READING

Senator Braun: “Thank you Madam President. So we’ve had a tough couple of bills in a row and I thought I would rise and share something that perhaps we could all agree on and recognize the historic achievement by one of our state’s most distinguished people. Mr. Jamal Crawford an N.B.A. player, you may recognize the name. He’s a Washington native, went to high school at Rainier Beach where he, by some estimations, was the greatest basketball player of Washington State’s history. He, last night, in a game, he currently plays for the Phoenix ...?, Phoenix ? Suns, there you go – not a basketball fan. In a game last night with the ... test you again, Dallas ...? Mavericks became the oldest player to score 50 points in a game breaking Michael Jordan’s record. He was previously the oldest, at 39. Jamal was thirty- sorry at 38, Jamal was 39. So he is the oldest basketball player to score 50 points in a single N.B.A. game. And, while I don’t know Mr. Crawford, we did cross paths briefly. When he left Washington, he was recruited to play for the Michigan Wolverines and he happened to be there while I was there at graduate school so – never met him but we did cross paths. I’ll highlight a couple of other interesting tidbits, Madam President. He is the only player to score 50 points in four separate N.B.A. games and he is now in the top 50 all-time scorers in the N.B.A. So I think we can all find good reason to be proud of his accomplishments and, hopefully, you will join me, Madam President, in congratulating Mr. Jamal Crawford. Thank you Madam President.”

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1788, by House Committee on Civil Rights & Judiciary (originally sponsored by Stokesbary)

Concerning the Washington state bar association.

The measure was read the second time.

MOTION

On motion of Senator Pedersen, the rules were suspended, Engrossed Substitute House Bill No. 1788 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pedersen and Padden spoke in favor of passage of the bill.

Senator O'Ban spoke against passage of the bill.

MOTION

Senator Pedersen moved that the following committee striking amendment by the Committee on Law & Justice be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 2.44 RCW to read as follows:

The legislature recognizes the inherent plenary authority of the Washington state supreme court to regulate court-related functions, including the practice of law and the administration of justice. The legislature further recognizes that the Washington state supreme court has commissioned a work group to undertake a review of the structure of the Washington state bar association. Because the court may conclude that it is necessary or desirable to make changes that may be inconsistent with the provisions of the 1933 state bar act, the legislature intends to preserve the existing state bar association but repeal provisions of the act that may be interpreted as limiting the court's authority to make structural or governance changes that the court determines to be necessary or desirable.

**Sec. 2.** RCW 2.48.010 and 1933 c 94 s 2 are each reenacted and amended to read as follows:

There is (~~hereby~~) created (~~as~~) an agency of the state( ~~for the purpose and with the powers hereinafter set forth, an association~~) within the judicial branch to be known as the Washington state bar association( ~~hereinafter designated as the state bar, which association shall~~) or another name as designated by the supreme court. The supreme court may provide for (1) the powers, governance, and operation of the association, including the establishment of fees sufficient to make the association self-sufficient; (2) the practice of law; and (3) the administration of justice. The supreme court may provide that the association have

President Pro Tempore Keiser: “That’s most welcome Senator Braun and I appreciate the very optimistic words about older players.”

The Senate recognized the achievements of Mr. Jamal Crawford.

EDITOR’S NOTE: On April 9, 2019, Mr. Aaron Jamal Crawford, professional basketball player for the National Basketball Association’s (N.B.A.) Phoenix Suns and former student and player at Seattle’s Rainier High School, scored 51 points during a game against the Dallas Mavericks in Dallas. At 39 years old, Mr. Crawford broke two single-game N.B.A. records: oldest player to score 50+ points, which had been previously held by Mr. Michael Jordan; and most points scored by a player not in the starting lineup, which had been previously held by Mr. Nick Anderson. Mr. Crawford also became the first player in N.B.A. history to post 50-point games with four different teams.

SIGNED BY THE PRESIDENT

Pursuant to Article 2, Section 32 of the State Constitution and Senate Rule 1(5), the President Pro Tempore announced the signing of and thereupon did sign in open session:

SENATE BILL NO. 5002,  
 SENATE BILL NO. 5162,

a common seal and may sue and be sued, and (~~which~~) may, for the purpose of carrying into effect and promoting the objects of (~~said~~) the association, enter into contracts and acquire, hold, encumber, and dispose of such real and personal property as is necessary (~~hereto~~). If the supreme court delegates responsibilities for governance of the association to a board, committee, or other group, a majority of the members of such board, committee, or group must be subject to election by the membership of the association.

**Sec. 3.** RCW 2.48.180 and 2003 c 53 s 2 are each amended to read as follows:

(1) As used in this section:

(a) "Legal provider" means (~~an active member in good standing of the state bar, and any other~~) a person authorized by the Washington state supreme court to engage in full or limited practice of law;

(b) "Nonlawyer" means a person to whom the Washington supreme court has granted a limited authorization to practice law but who practices law outside that authorization, and a person who is not (~~an active member in good standing of the state bar, including persons who are disbarred or suspended from membership~~) authorized by the Washington state supreme court to engage in full or limited practice of law;

(c) "Ownership interest" means the right to control the affairs of a business, or the right to share in the profits of a business, and includes a loan to the business when the interest on the loan is based upon the income of the business or the loan carries more than a commercially reasonable rate of interest.

(2) The following constitutes unlawful practice of law:

(a) A nonlawyer practices law, or holds himself or herself out as entitled to practice law;

(b) A legal provider holds an investment or ownership interest in a business primarily engaged in the practice of law, knowing that a nonlawyer holds an investment or ownership interest in the business;

(c) A nonlawyer knowingly holds an investment or ownership interest in a business primarily engaged in the practice of law;

(d) A legal provider works for a business that is primarily engaged in the practice of law, knowing that a nonlawyer holds an investment or ownership interest in the business; or

(e) A nonlawyer shares legal fees with a legal provider.

(3)(a) Unlawful practice of law is a crime. A single violation of this section is a gross misdemeanor.

(b) Each subsequent violation of this section, whether alleged in the same or in subsequent prosecutions, is a class C felony punishable according to chapter 9A.20 RCW.

(4) Nothing contained in this section affects the power of the courts to grant injunctive or other equitable relief or to punish as for contempt.

(5) Whenever a legal provider or a person licensed by the state in a business or profession is convicted, enjoined, or found liable for damages or a civil penalty or other equitable relief under this section, the plaintiff's attorney shall provide written notification of the judgment to the appropriate regulatory or disciplinary body or agency.

(6) A violation of this section is cause for discipline and constitutes unprofessional conduct that could result in any regulatory penalty provided by law, including refusal, revocation, or suspension of a business or professional license, or right or admission to practice. Conduct that constitutes a violation of this section is unprofessional conduct in violation of RCW 18.130.180.

(7) In a proceeding under this section it is a defense if proven by the defendant by a preponderance of the evidence that, at the time of the offense, the conduct alleged was authorized by the

rules of professional conduct or the admission to practice rules, or Washington business and professions licensing statutes or rules.

(8) Independent of authority granted to the attorney general, the prosecuting attorney may petition the superior court for an injunction against a person who has violated this chapter. Remedies in an injunctive action brought by a prosecuting attorney are limited to an order enjoining, restraining, or preventing the doing of any act or practice that constitutes a violation of this chapter and imposing a civil penalty of up to five thousand dollars for each violation. The prevailing party in the action may, in the discretion of the court, recover its reasonable investigative costs and the costs of the action including a reasonable attorney's fee. The degree of proof required in an action brought under this subsection is a preponderance of the evidence. An action under this subsection must be brought within three years after the violation of this chapter occurred.

**NEW SECTION. Sec. 4.** The following acts or parts of acts are each repealed:

- (1)RCW 2.48.020 (First members) and 1933 c 94 s 3;
- (2)RCW 2.48.021 (New members) and 1933 c 94 s 4;
- (3)RCW 2.48.030 (Board of governors) and 1982 1st ex.s. c 30 s 1, 1972 ex.s. c 66 s 1, & 1933 c 94 s 5;
- (4)RCW 2.48.035 (Board of governors—Membership—Effect of creation of new congressional districts or boundaries) and 1982 1st ex.s. c 30 s 2;
- (5)RCW 2.48.040 (State bar governed by board of governors) and 1933 c 94 s 6;
- (6)RCW 2.48.050 (Powers of governors) and 1933 c 94 s 7;
- (7)RCW 2.48.060 (Admission and disbarment) and 1933 c 94 s 8;
- (8)RCW 2.48.070 (Admission of veterans) and 1945 c 181 s 1;
- (9)RCW 2.48.080 (Admission of veterans—Establishment of requirements if in service) and 2011 c 336 s 63 & 1945 c 181 s 2;
- (10)RCW 2.48.090 (Admission of veterans—Establishment of requirements if discharged) and 2011 c 336 s 64 & 1945 c 181 s 3;
- (11)RCW 2.48.100 (Admission of veterans—Effect of disability discharge) and 1945 c 181 s 4;
- (12)RCW 2.48.110 (Admission of veterans—Fees of veterans) and 1945 c 181 s 5;
- (13)RCW 2.48.130 (Membership fee—Active) and 1957 c 138 s 1, 1953 c 256 s 1, & 1933 c 94 s 9;
- (14)RCW 2.48.140 (Membership fee—Inactive) and 1955 c 34 s 1 & 1933 c 94 s 10;
- (15)RCW 2.48.150 (Admission fees) and 2011 c 336 s 65 & 1933 c 94 s 11;
- (16)RCW 2.48.160 (Suspension for nonpayment of fees) and 2011 c 336 s 66 & 1933 c 94 s 12;
- (17)RCW 2.48.166 (Admission to or suspension from practice—Noncompliance with support order—Rules) and 1997 c 58 s 810;
- (18)RCW 2.48.170 (Only active members may practice law) and 2011 c 336 s 67 & 1933 c 94 s 13;
- (19)RCW 2.48.190 (Qualifications on admission to practice) and 1987 c 202 s 107 & 1921 c 126 s 4;
- (20)RCW 2.48.210 (Oath on admission) and 2013 c 23 s 1 & 1921 c 126 s 12;
- (21)RCW 2.48.220 (Grounds of disbarment or suspension) and 2011 c 336 s 68, 1921 c 126 s 14, & 1909 c 139 s 7; and
- (22)RCW 2.48.230 (Code of ethics) and 1921 c 126 s 15.

**NEW SECTION. Sec. 5.** (1) RCW 2.48.010 is recodified as a section in chapter 2.04 RCW.

(2) RCW 2.48.180 and RCW 2.48.200 are each recodified as

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sections in chapter 2.44 RCW.

**NEW SECTION. Sec. 6.** This act takes effect July 1, 2020."

On page 1, line 1 of the title, after "association;" strike the remainder of the title and insert "amending RCW 2.48.180; reenacting and amending RCW 2.48.010; adding new sections to chapter 2.44 RCW; adding a new section to chapter 2.04 RCW; recodifying RCW 2.48.010, 2.48.180, and 2.48.200; repealing RCW 2.48.020, 2.48.021, 2.48.030, 2.48.035, 2.48.040, 2.48.050, 2.48.060, 2.48.070, 2.48.080, 2.48.090, 2.48.100, 2.48.110, 2.48.130, 2.48.140, 2.48.150, 2.48.160, 2.48.166, 2.48.170, 2.48.190, 2.48.210, 2.48.220, and 2.48.230; and providing an effective date."

#### MOTION

Senator Honeyford moved that the following amendment no. 579 by Senator Honeyford be adopted:

On page 1, beginning on line 19, after "created" strike all material through "~~association~~" on line 21 and insert "~~((as an agency of the state, for the purpose and with the powers hereinafter set forth, an association))~~ a department"

Senator Honeyford spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Pedersen spoke against adoption of the amendment to the committee striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 579 by Senator Honeyford on page 1, line 19 to Engrossed Substitute House Bill No. 1788.

The motion by Senator Honeyford did not carry and amendment no. 579 was not adopted by voice vote.

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Law & Justice to Engrossed Substitute House Bill No. 1788.

The motion by Senator Pedersen carried and the committee striking amendment was adopted by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1788 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1788 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 26; Nays, 18; Absent, 0; Excused, 5.

Voting yea: Senators Billig, Brown, Carlyle, Cleveland, Darnelle, Dhingra, Fortunato, Frockt, Hawkins, Hobbs, Holy, Hunt, Keiser, Kuderer, Lias, Lovelett, Padden, Palumbo, Pedersen, Saldaña, Takko, Van De Wege, Wagoner, Walsh, Warnick and Wellman

Voting nay: Senators Bailey, Becker, Braun, Das, Erickson, Hasegawa, Honeyford, King, Nguyen, O'Ban, Randall, Rivers, Rolfes, Salomon, Schoesler, Short, Wilson, C. and Zeiger

Excused: Senators Conway, McCoy, Mullet, Sheldon and Wilson, L.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1788, as amended by the Senate, 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 10:09 p.m., on motion of Senator Lias, the Senate adjourned until 10:00 o'clock a.m. Thursday, April 11, 2019.

KAREN KEISER, President Pro Tempore of the Senate

BRAD HENDRICKSON, Secretary of the Senate

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1208	Second Reading .....	30
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1219-E	Second Reading .....	40
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1355-SE	Second Reading .....	68
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1360-S	Second Reading .....	43
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Singh, Mr. Daljit, Priest, Gurudwara Sri Guru Tegh Bahadur Sahib Ji, Kent .....	1

#### FLAG BEARERS

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Tibbits, Miss Sarah .....	1

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Sidhu, The Honorable Satpal, Councilmember Whatcom County Council .....	2
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Singh Sabha, Gurudwara, Renton.....	2

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