

FIFTY-FIFTH DAY

MORNING SESSION

Senate Chamber, Olympia, Saturday, March 4, 2006

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benson, Carrell and Poulsen.

The Sergeant at Arms Color Guard consisting of Pages Chris Anderson and Don Smith, presented the Colors. Pastor Paul Riegel of Faith Community Church offered the prayer.

MOTION

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

MOTION

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

MESSAGE FROM THE HOUSE

March 2, 2006

MR. PRESIDENT:

The Speaker has signed:

SENATE BILL NO. 5439,
 ENGROSSED SENATE BILL NO. 6152,
 SENATE BILL NO. 6159,
 ENGROSSED SENATE BILL NO. 6169,
 SUBSTITUTE SENATE BILL NO. 6185,
 SENATE BILL NO. 6208,
 ENGROSSED SENATE BILL NO. 6236,
 SENATE BILL NO. 6338,
 SUBSTITUTE SENATE BILL NO. 6359,
 SUBSTITUTE SENATE BILL NO. 6406,
 ENGROSSED SECOND SUBSTITUTE SENATE BILL
 NO. 6480,
 ENGROSSED SENATE BILL NO. 6537,
 SENATE BILL NO. 6549,
 SENATE BILL NO. 6576,
 SENATE BILL NO. 6596

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

March 2, 2006

MR. PRESIDENT:

The House has passed the following bill(s):

ENGROSSED SENATE BILL NO. 5048,
 SENATE BILL NO. 6264,
 SENATE BILL NO. 6280,
 SENATE BILL NO. 6412,
 SENATE BILL NO. 6418,
 SECOND SUBSTITUTE SENATE BILL NO. 6460,
 SUBSTITUTE SENATE BILL NO. 6717

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

March 2, 2006

MR. PRESIDENT:

The House has passed the following bill(s):
 SUBSTITUTE HOUSE BILL NO. 3293,
 and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING

SHB 3293 by House Committee on Judiciary (originally sponsored by Representatives Roach, Chase, Takko, Shabro, Rodne, Simpson, Serben, Nixon, Williams, Morrell, Sells, Haler, Campbell and Ahern)

AN ACT Relating to disorderly conduct; amending RCW 9A.84.030; prescribing penalties; and declaring an emergency.

Referred to Committee on Judiciary.

MOTION

On motion of Senator Eide, the measure listed on the Introduction and First Reading report was referred to the committee as designated.

MOTION

At 10:13 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:27 a.m. by President Owen.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

**SECOND READING
 CONFIRMATION OF GUBERNATORIAL APPOINTMENTS**

MOTION

Senator Delvin moved that Gubernatorial Appointment No. 9393, Lura Powell, as chair of the Board of Trustees, The Life Sciences Discovery Fund Authority, be confirmed.

Senator Delvin spoke in favor of the motion.

MOTION

On motion of Senator Weinstein, Senator Poulsen was excused.

MOTION

On motion of Senator Mulliken, Senator McCaslin was excused.

APPOINTMENT OF LURA POWELL

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The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9393, Lura Powell as a chair of the Board of Trustees, The Life Sciences Discovery Fund Authority.

MESSAGE FROM THE HOUSE

March 3, 2006

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9393, Lura Powell as chair of the Board of Trustees, The Life Sciences Discovery Fund Authority and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 2; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 46

Absent: Senators Benson and Carrell - 2

Excused: Senator Poulsen - 1

Gubernatorial Appointment No. 9393, Lura Powell, having received the constitutional majority was declared confirmed as chair of the Board of Trustees, The Life Sciences Discovery Fund Authority.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Hewitt moved that Gubernatorial Appointment No. 9213, Shirley Winsley, as a member of the Board of Tax Appeals, be confirmed.

Senator Hewitt spoke in favor of the motion.

MOTION

On motion of Senator Schoesler, Senators Benson and Carrell were excused.

APPOINTMENT OF SHIRLEY WINSLEY

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9213, Shirley Winsley as a member of the Board of Tax Appeals.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9213, Shirley Winsley as a member of the Board of Tax Appeals and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Prentice, Pridemore, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Absent: Senator Rasmussen - 1

Excused: Senators Benson, Carrell and Poulsen - 3

Gubernatorial Appointment No. 9213, Shirley Winsley, having received the constitutional majority was declared confirmed as a member of the Board of Tax Appeals.

MOTION

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

MR. PRESIDENT:

The Speaker has signed:

HOUSE BILL NO. 1305,
 ENGROSSED HOUSE BILL NO. 1383,
 HOUSE BILL NO. 1471,
 SUBSTITUTE HOUSE BILL NO. 1504,
 HOUSE BILL NO. 1641,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2056,
 HOUSE BILL NO. 2328,
 HOUSE BILL NO. 2330,
 HOUSE BILL NO. 2366,
 HOUSE BILL NO. 2379,
 HOUSE BILL NO. 2380,
 SUBSTITUTE HOUSE BILL NO. 2394,
 SUBSTITUTE HOUSE BILL NO. 2414,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2479,
 HOUSE BILL NO. 2520,
 HOUSE BILL NO. 2562,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2651,
 SUBSTITUTE HOUSE BILL NO. 2670,
 HOUSE BILL NO. 2690,
 SUBSTITUTE HOUSE BILL NO. 2691,
 SUBSTITUTE HOUSE BILL NO. 2713,
 SUBSTITUTE HOUSE BILL NO. 2723,
 SUBSTITUTE HOUSE BILL NO. 2726,
 SUBSTITUTE HOUSE BILL NO. 2780,
 SUBSTITUTE HOUSE BILL NO. 2804,
 SECOND SUBSTITUTE HOUSE BILL NO. 2805,
 HOUSE BILL NO. 2857,
 HOUSE BILL NO. 2874,
 SUBSTITUTE HOUSE BILL NO. 2876,
 SUBSTITUTE HOUSE BILL NO. 2898,
 SUBSTITUTE HOUSE BILL NO. 2908,
 HOUSE BILL NO. 2932,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2951,
 SUBSTITUTE HOUSE BILL NO. 2987,
 HOUSE BILL NO. 3001,
 HOUSE BILL NO. 3056,
 ENGROSSED HOUSE BILL NO. 3074,
 SUBSTITUTE HOUSE BILL NO. 3085,
 SUBSTITUTE HOUSE BILL NO. 3087,
 SUBSTITUTE HOUSE BILL NO. 3120,
 SUBSTITUTE HOUSE BILL NO. 3128,
 HOUSE BILL NO. 3134,
 SUBSTITUTE HOUSE BILL NO. 3137,
 HOUSE BILL NO. 3154,
 SUBSTITUTE HOUSE BILL NO. 3185,
 ENGROSSED HOUSE BILL NO. 3192,
 HOUSE BILL NO. 3252,
 HOUSE JOINT MEMORIAL NO. 4023,
 HOUSE JOINT MEMORIAL NO. 4031,

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed.

HOUSE BILL NO. 1305,
 ENGROSSED HOUSE BILL NO. 1383,
 HOUSE BILL NO. 1471,
 SUBSTITUTE HOUSE BILL NO. 1504,
 HOUSE BILL NO. 1641,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2056,
 HOUSE BILL NO. 2328,
 HOUSE BILL NO. 2330,
 HOUSE BILL NO. 2366,
 HOUSE BILL NO. 2379,
 HOUSE BILL NO. 2380,

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SUBSTITUTE HOUSE BILL NO. 2394,
 SUBSTITUTE HOUSE BILL NO. 2414,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2479,
 HOUSE BILL NO. 2520,
 HOUSE BILL NO. 2562,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2651,
 SUBSTITUTE HOUSE BILL NO. 2670,
 HOUSE BILL NO. 2690,
 SUBSTITUTE HOUSE BILL NO. 2691,
 SUBSTITUTE HOUSE BILL NO. 2713,
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 HOUSE BILL NO. 3134,
 SUBSTITUTE HOUSE BILL NO. 3137,
 HOUSE BILL NO. 3154,
 SUBSTITUTE HOUSE BILL NO. 3185,
 ENGROSSED HOUSE BILL NO. 3192,
 HOUSE BILL NO. 3252,
 HOUSE JOINT MEMORIAL NO. 4023,
 HOUSE JOINT MEMORIAL NO. 4031,

SIGNED BY THE PRESIDENT

The President signed:
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6885,

MESSAGE FROM THE HOUSE

March 1, 2006

MR. PRESIDENT:

The House has passed ENGROSSED SENATE BILL NO. 5232, with the following amendments(s) 5232.E AMH ROAD H5411.2.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 77.32.460 and 2000 c 109 s 2 are each amended to read as follows:

(1) A small game hunting license is required to hunt for all classified wild animals and wild birds, except big game. A small game license also allows the holder to hunt for unclassified wildlife. ~~((The small game license includes one transport tag for turkey.))~~

(a) The fee for this license is thirty dollars for residents, one hundred fifty dollars for nonresidents, and fifteen dollars for youth.

(b) The fee for this license if purchased in conjunction with a big game combination license package is sixteen dollars for residents, eighty dollars for nonresidents, and eight dollars for youth.

(c) The fee for a three-consecutive-day small game license is fifty dollars for nonresidents.

(2) In addition to a small game license, a turkey tag is required to hunt for turkey.

(a) The fee for a primary turkey tag is fourteen dollars for residents and forty dollars for nonresidents. A primary turkey tag will, on request, be issued to the purchaser of a youth small game license at no charge.

(b) The fee for each additional turkey tag is ~~((eighteen))~~ fourteen dollars for residents, sixty dollars for nonresidents, and nine dollars for youth.

(c) All moneys received from turkey tags must be deposited in the state wildlife account. One-third of the moneys received from turkey tags must be appropriated solely for the purposes of turkey management. An additional one-third of the moneys received from turkey tags must be appropriated solely for upland game bird management. Moneys received from turkey tags may not supplant existing funds provided for these purposes."

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Jacobsen moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5232.

Senators Jacobsen and Oke spoke in favor of passage of the motion.

MOTION

On motion of Senator Regala, Senators Prentice and McAuliffe were excused.

MOTION

The President declared the question before the Senate to be the motion by Senator Jacobsen that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5232.

The motion by Senator Jacobsen carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 5232 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5232, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5232, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 40; Nays, 6; Absent, 0; Excused, 3.

Voting yea: Senators Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McCaslin, Morton, Oke, Parlette, Poulsen, Pridemore, Rasmussen, Regala, Rockefeller, Schmidt, Sheldon, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 40

Voting nay: Senators Benton, Mulliken, Pflug, Roach, Schoesler and Stevens - 6

Excused: Senators Benson, McAuliffe and Prentice - 3

ENGROSSED SENATE BILL NO. 5232, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 2, 2006

FIFTY-FIFTH DAY, MARCH 4, 2006

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6059, with the following amendments{s} 6059 AMH SGOA AMH 5368.1.

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1** A new section is added to chapter 41.04 RCW to read as follows:

The department of personnel and other personnel authorities shall adopt rules governing the accumulation and use of sick leave for state agency and department employees, expressly for the establishment of a plan allowing participating employees to pool sick leave and allowing any sick leave thus pooled to be used by any participating employee who has used all of the sick leave that has been personally accrued by him or her. Each department or agency of the state may allow employees to participate in a sick leave pool established by the department of personnel.

(1) For purposes of calculating maximum sick leave that may be donated or received by any one employee, pooled sick leave:

(a) Is counted and converted in the same manner as sick leave under the Washington state leave sharing program as provided in this chapter; and

(b) Does not create a right to sick leave in addition to the amount that may be donated or received under the Washington state leave sharing program as provided in this chapter.

(2) Rules adopted by the department shall provide:

(a) That employees are eligible to participate in the sick leave pool after one year of employment with the state or agency of the state if the employee has accrued a minimum amount of unused sick leave, to be established by rule;

(b) That participation in the sick leave pool shall, at all times, be voluntary on the part of the employees;

(c) That any sick leave pooled shall be removed from the personally accumulated sick leave balance of the employee contributing the leave;

(d) That any sick leave in the pool that is used by a participating employee may be used only for the employee's personal illness, accident, or injury;

(e) That a participating employee is not eligible to use sick leave accumulated in the pool until all of his or her personally accrued sick, annual, and compensatory leave has been used;

(f) A maximum number of days of sick leave in the pool that any one employee may use; (g) That a participating employee who uses sick leave from the pool is not required to recontribute such sick leave to the pool, except as otherwise provided in this section;

(h) That an employee who cancels his or her membership in the sick leave pool is not eligible to withdraw the days of sick leave contributed by that employee to the pool;

(i) That an employee who transfers from one position in state government to another position in state government may transfer from one pool to another if the eligibility criteria of the pools are comparable and the administrators of the pools have agreed on a formula for transfer of credits;

(j) That alleged abuse of the use of the sick leave pool shall be investigated, and, on a finding of wrongdoing, the employee shall repay all of the sick leave credits drawn from the sick leave pool and shall be subject to such other disciplinary action as is determined by the agency head;

(k) That sick leave credits may be drawn from the sick leave pool by a part-time employee on a pro rata basis; and

(l) That each department or agency shall maintain accurate and reliable records showing the amount of sick leave which has been accumulated and is unused by employees, in accordance with guidelines established by the department of personnel.

NEW SECTION. Sec. 2 This act takes effect July 1, 2007."

Correct the title.

and the same are herewith transmitted

RICHARD NAFZIGER, Chief Clerk

MOTION

On motion of Senator Regala, Senator Brown was excused.

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Senate Bill No. 6059.

Senator Kohl-Welles spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Senate Bill No. 6059.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6059 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6059, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6059, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Benson - 1

SENATE BILL NO. 6059, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 1, 2006

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6188, with the following amendments{s} 6188-S AMH APP H5405.1.

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1** A new section is added to chapter 41.05 RCW to read as follows:

(1) Each plan offered to public employees and their covered dependents under this chapter that is not subject to the provisions of Title 48 RCW and is issued or renewed after December 31, 2006, shall provide coverage for prostate cancer screening, provided that the screening is delivered upon the recommendation of the patient's physician, advanced registered nurse practitioner, or physician assistant.

(2) This section shall not be construed to prevent the application of standard policy provisions applicable to other benefits, such as deductible or copayment provisions. This section does not limit the authority of the health care authority to negotiate rates and contract with specific providers for the delivery of prostate cancer screening services. This section shall not apply to medicare supplemental policies or supplemental contracts covering a specified disease or other limited benefits.

NEW SECTION. Sec. 2 A new section is added to chapter 48.20 RCW to read as follows:

(1) Each disability insurance policy issued or renewed after December 31, 2006, that provides coverage for hospital or medical expenses shall provide coverage for prostate cancer screening, provided that the screening is delivered upon the

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recommendation of the patient's physician, advanced registered nurse practitioner, or physician assistant.

(2) This section shall not be construed to prevent the application of standard policy provisions applicable to other benefits, such as deductible or copayment provisions. This section does not limit the authority of an insurer to negotiate rates and contract with specific providers for the delivery of prostate cancer screening services. This section shall not apply to medicare supplemental policies or supplemental contracts covering a specified disease or other limited benefits.

NEW SECTION. Sec. 3 A new section is added to chapter 48.21 RCW to read as follows:

(1) Each group disability insurance policy issued or renewed after December 31, 2006, that provides coverage for hospital or medical expenses shall provide coverage for prostate cancer screening, provided that the screening is delivered upon the recommendation of the patient's physician, advanced registered nurse practitioner, or physician assistant.

(2) This section shall not be construed to prevent the application of standard policy provisions applicable to other benefits, such as deductible or copayment provisions. This section does not limit the authority of an insurer to negotiate rates and contract with specific providers for the delivery of prostate cancer screening services. This section shall not apply to medicare supplemental policies or supplemental contracts covering a specified disease or other limited benefits.

NEW SECTION. Sec. 4 A new section is added to chapter 48.44 RCW to read as follows:

(1) Each health care service contract issued or renewed after December 31, 2006, that provides coverage for hospital or medical expenses shall provide coverage for prostate cancer screening, provided that the screening is delivered upon the recommendation of the patient's physician, advanced registered nurse practitioner, or physician assistant.

(2) This section shall not be construed to prevent the application of standard policy provisions applicable to other benefits, such as deductible or copayment provisions. This section does not limit the authority of a contractor to negotiate rates and contract with specific providers for the delivery of prostate cancer screening services. This section shall not apply to medicare supplemental policies or supplemental contracts covering a specified disease or other limited benefits.

NEW SECTION. Sec. 5 A new section is added to chapter 48.46 RCW to read as follows:

(1) Each health maintenance agreement issued or renewed after December 31, 2006, that provides coverage for hospital or medical expenses shall provide coverage for prostate cancer screening, provided that the screening is delivered upon the recommendation of the patient's physician, advanced registered nurse practitioner, or physician assistant.

(2) All services must be provided by the health maintenance organization or rendered upon a referral by the health maintenance organization.

(3) This section shall not be construed to prevent the application of standard policy provisions applicable to other benefits, such as deductible or copayment provisions. This section does not limit the authority of a health maintenance organization to negotiate rates and contract with specific providers for the delivery of prostate cancer screening services. This section shall not apply to medicare supplemental policies or supplemental contracts covering a specified disease or other limited benefits.

NEW SECTION. Sec. 6 A new section is added to chapter 48.125 RCW to read as follows:

(1) Each self-funded multiple employer welfare arrangement established, operated, providing benefits, or maintained in this state after December 31, 2006, that provides coverage for hospital or medical expenses shall provide coverage for prostate cancer screening, provided that the screening is delivered upon the recommendation of the patient's physician, advanced registered nurse practitioner, or physician assistant.

(2) This section shall not be construed to prevent the application of standard policy provisions applicable to other benefits, such as deductible or copayment provisions. This section does not limit the authority of a self-funded multiple

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employer welfare arrangement to negotiate rates and contract with specific providers for the delivery of prostate cancer screening services.

NEW SECTION. Sec. 7 A new section is added to chapter 70.47 RCW to read as follows:

(1) Any schedule of benefits established or renewed by the Washington basic health plan after December 31, 2006, shall provide coverage for prostate cancer screening, provided that the screening is delivered upon the recommendation of the patient's physician, advanced registered nurse practitioner, or physician assistant.

(2) This section shall not be construed to prevent the application of standard policy provisions applicable to other benefits, such as deductible or copayment provisions. This section does not limit the authority of the health care authority to negotiate rates and contract with specific providers for the delivery of prostate cancer screening services.

NEW SECTION. Sec. 8 A new section is added to chapter 74.09 RCW to read as follows:

The department shall provide coverage for prostate cancer screening under this chapter, provided that the screening is delivered upon the recommendation of the patient's physician, advanced registered nurse practitioner, or physician assistant."

Correct the title.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Johnson moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6188.

Senator Keiser spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Johnson that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6188.

The motion by Senator Johnson carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6188 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6188, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6188, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudreau, Weinstein and Zarelli - 47

Absent: Senator Prentice - 1

Excused: Senator Benson - 1

SUBSTITUTE SENATE BILL NO. 6188, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 2, 2006

MR. PRESIDENT:

FIFTY-FIFTH DAY, MARCH 4, 2006

The House has passed SUBSTITUTE SENATE BILL NO. 6234, with the following amendments{s} 6234-S AMH APP H5422.1.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The purpose of this act is to confront the problem of insurance fraud in this state by making a concerted effort to detect insurance fraud, reduce the occurrence of fraud through criminal enforcement and deterrence, require restitution of fraudulently obtained insurance benefits and expenses incurred by an insurer in investigating fraudulent claims, and reduce the amount of premium dollars used to pay fraudulent claims. The primary focus of the insurance fraud program is on organized fraudulent activities committed against insurance companies.

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

(1) "Insurance fraud" means an act or omission committed by a person who, knowingly, and with intent to defraud, commits, or conceals any material information concerning, one or more of the following:

(a) Presenting, causing to be presented, or preparing with knowledge or belief that it will be presented to or by an insurer, broker, or its agent, false information as part of, in support of, or concerning a fact material to one or more of the following:

(i) An application for the issuance or renewal of an insurance policy;

(ii) The rating of an insurance policy or contract;

(iii) A claim for payment or benefit pursuant to an insurance policy;

(iv) Premiums paid on an insurance policy;

(v) Payments made in accordance with the terms of an insurance policy; or

(vi) The reinstatement of an insurance policy;

(b) Willful embezzlement, abstracting, purloining, or conversion of moneys, funds, premiums, credits, or other property of an insurer or person engaged in the business of insurance; or

(c) Attempting to commit, aiding or abetting in the commission of, or conspiracy to commit the acts or omissions specified in this subsection.

The definition of insurance fraud is for illustrative purposes only under this chapter to describe the nature of the behavior to be reported and investigated, and is not intended in any manner to create or modify the definition of any existing criminal acts nor to create or modify the burdens of proof in any criminal prosecution brought as a result of an investigation under this chapter.

(2) "Insurer" means an insurance company authorized under chapter 48.05 RCW, a health care service contractor registered under chapter 48.44 RCW, and a health care maintenance organization registered under chapter 48.46 RCW.

NEW SECTION. Sec. 3. (1) There is established an insurance fraud program within the office of the insurance commissioner. The commissioner may employ supervisory, legal, and investigative personnel for the program, who must be qualified by training and experience in the areas of detection, investigation, or prosecution of fraud in which the insurance industry is a victim. The chief of the fraud program is a full-time position that is appointed by the commissioner. The chief serves at the pleasure of the commissioner. The commissioner shall provide office space, equipment, supplies, investigators, clerical staff, and other staff that are necessary for the program to carry out its duties and responsibilities under this chapter.

(2) The commissioner may fund one or more state patrol officers to work with the insurance fraud program and the funding for the officers must be paid out of the budget of the insurance fraud program.

(3) The commissioner may fund one or more assistant attorney generals and support staff to work with the insurance fraud program and the funding for the assistant attorney generals and support staff must be paid out of the budget of the insurance fraud program.

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(4) The commissioner may make grants to or reimburse local prosecuting attorneys to assist in the prosecution of insurance fraud. The grants must be paid out of the budget of the insurance fraud program. The commissioner may investigate and seek prosecution of crimes involving insurance fraud upon the request of or with the concurrence of the county prosecuting attorney of the jurisdiction in which the offense has occurred. Before such a prosecution, the commissioner and the county in which the offense occurred shall reach an agreement regarding the payment of all costs, including expert witness fees, and defense attorneys' fees associated with any such prosecution.

(5) Staff levels for this program, until June 30, 2010, shall not exceed 8.0 full-time equivalents.

NEW SECTION. Sec. 4. The annual cost of operating the fraud program is funded from the insurance commissioner's regulatory account under RCW 48.02.190 subject to appropriation by the legislature.

NEW SECTION. Sec. 5. (1) The commissioner may:

(a) Employ and train personnel to achieve the purposes of this chapter and to employ legal counsel, investigators, auditors, and clerical support personnel and other personnel as the commissioner determines necessary from time to time to accomplish the purposes of this chapter;

(b) Initiate inquiries and conduct investigations when the commissioner has cause to believe that insurance fraud has been, is being, or is about to be committed;

(c) Conduct independent examinations of alleged insurance fraud;

(d) Review notices, reports, or complaints of suspected insurance fraud activities from federal, state, and local law enforcement and regulatory agencies, persons engaged in the business of insurance, and any other person to determine whether the reports require further investigation;

(e) Share records and evidence with federal, state, or local law enforcement or regulatory agencies, and enter into interagency agreements;

(f) Conduct investigations outside this state. If the information the commissioner seeks to obtain is located outside this state, the person from whom the information is sought may make the information available to the commissioner to examine at the place where the information is located. The commissioner may designate representatives, including officials of the state in which the matter is located, to inspect the information on behalf of the commissioner, and the commissioner may respond to similar requests from officials of other states;

(g) Administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records that the commissioner deems relevant or material to an inquiry concerning insurance fraud;

(h) Report incidents of alleged insurance fraud disclosed by its investigations to the appropriate prosecutorial authority, including but not limited to the attorney general and to any other appropriate law enforcement, administrative, regulatory, or licensing agency;

(i) Assemble evidence, prepare charges, and work closely with any prosecutorial authority having jurisdiction to pursue prosecution of insurance fraud; and

(j) Undertake independent studies to determine the extent of fraudulent insurance acts.

(2) The fraud program investigators who have obtained certification as a peace officer under RCW 43.101.095 have the powers and status of a limited authority Washington peace officer.

NEW SECTION. Sec. 6. (1) Any insurer or licensee of the commissioner that has reasonable belief that an act of insurance fraud which is or may be a crime under Washington law has been, is being, or is about to be committed shall furnish and disclose the knowledge and information to the commissioner or the national insurance crime bureau, the national association of insurance commissioners, or similar organization, who shall disclose the information to the commissioner, and cooperate fully with any investigation conducted by the commissioner.

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(2) Any person that has a reasonable belief that an act of insurance fraud which is or may be a crime under Washington law has been, is being, or is about to be committed; or any person who collects, reviews, or analyzes information concerning insurance fraud which is or may be a crime under Washington law may furnish and disclose any information in its possession concerning such an act to the commissioner or to an authorized representative of an insurer that requests the information for the purpose of detecting, prosecuting, or preventing insurance fraud.

NEW SECTION. Sec. 7. (1) Documents, materials, or other information as described in subsection (3), (4), or both of this section are exempt from public inspection and copying under chapters 42.17 and 42.56 RCW. The commissioner is authorized to use such documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties.

(2) The commissioner:

(a) May share documents, materials, or other information, including the documents, materials, or information subject to subsection (1) of this section, with (i) the national association of insurance commissioners and its affiliates and subsidiaries, (ii) regulatory and law enforcement officials of other states and nations, the federal government, and international authorities, (iii) the national insurance crime bureau, and (iv) an insurer with respect to whom the suspected fraudulent claim may be perpetrated;

(b) May receive documents, materials, or information from (i) the national association of insurance commissioners and its affiliates and subsidiaries, (ii) regulatory and law enforcement officials of other states and nations, the federal government, and international authorities, (iii) the national insurance crime bureau, and (iv) an insurer with respect to whom the suspected fraudulent claim may be perpetrated and any such documents, materials, or information as described in subsection (3), (4), or both of this section are exempt from public inspection and copying; and

(c) May enter into agreements governing the sharing and use of information consistent with this subsection.

(3) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, the fraud program of the office of the insurance commissioner, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy, are exempt under subsection (1) of this section.

(4) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, and penology agencies, or the fraud program of the office of the insurance commissioner, if disclosure would endanger any person's life, physical safety, or property, is exempt under subsection (1) of this section. If at the time a complaint is filed the complainant, victim, or witness indicates a desire for disclosure or nondisclosure, such desire shall govern.

(5) No waiver of an existing privilege or claim of confidentiality in the documents, materials, or information may occur as a result of disclosure to the commissioner under this section or as a result of sharing documents, materials, or information as authorized in subsection (2) of this section.

(6) Documents, materials, or other information that is in the possession of persons other than the commissioner that would otherwise not be confidential by law or privileged do not become confidential by law or privileged by providing the documents, materials, or other information to the commissioner.

NEW SECTION. Sec. 8. In a criminal prosecution for any crime under Washington law in which the insurance company is a victim, the insurance company is entitled to be considered as a victim in any restitution ordered by the court under RCW 9.94A.753, as part of the criminal penalty imposed against the defendant convicted for such a violation.

NEW SECTION. Sec. 9. This chapter does not:

(1) Preempt the authority or relieve the duty of any other general authority law enforcement agencies to investigate, examine, and prosecute suspected violations of law;

(2) Prevent or prohibit a person from voluntarily disclosing any information concerning insurance fraud to any law enforcement agency other than the commissioner; or

(3) Limit any of the powers granted elsewhere in this title to the commissioner to investigate and examine possible violations of the law and to take appropriate action.

NEW SECTION. Sec. 10. No later than six months after the effective date of this section, or when the insurer has used all its existing paper application and claim forms which were in its possession on the effective date of this section, whichever is later, all applications for insurance, and all claim forms regardless of the form of transmission provided and required by an insurer or required by law as condition of payment of a claim, must contain a statement, permanently affixed to the application or claim form, that clearly states in substance the following:

"It is a crime to knowingly provide false, incomplete, or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines, and denial of insurance benefits."

The lack of a statement required in this section does not constitute a defense in any criminal prosecution nor any civil action.

NEW SECTION. Sec. 11. The commissioner shall appoint an insurance fraud advisory board. The board shall consist of ten members. Five members shall be representatives from the insurance industry doing business in this state, at least one of which shall be from a Washington domestic insurer, two members shall represent consumers, one member shall represent the national insurance crime bureau or successor organization, one member shall represent prosecutors, and one member shall represent other law enforcement agencies. The members of the board serve four-year terms and until their successors are appointed and qualified. Three of the original members must be appointed to serve an initial term of four years, three must be appointed to serve an initial term of three years, two must be appointed to serve an initial term of two years, and two must be appointed to serve an initial term of one year. The members of the board receive no compensation. The board shall advise the commissioner and the legislature with respect to the effectiveness, resources allocated to the fraud program, the source of the funding for the program, and before June 30, 2010, if the staffing level restriction in section 3(5) of this act should be renewed.

NEW SECTION. Sec. 12. The commissioner shall prepare a periodic report of the activities of the fraud program. The report shall, at a minimum, include information as to the number of cases reported to the commissioner, the number of cases referred for prosecution, the number of convictions obtained, the amount of money recovered, and any recommendations of the insurance advisory board.

NEW SECTION. Sec. 13. The commissioner may adopt rules to implement and administer this chapter.

Sec. 14. RCW 48.50.070 and 2000 c 254 s 5 are each amended to read as follows:

Any licensed insurance agent, any licensed insurance broker, or any insurer or person acting in the insurer's behalf, health maintenance organization or person acting in behalf of the health maintenance organization, health care service contractor or person acting in behalf of the health care service contractor, or any authorized agency which releases information, whether oral or written, to the commissioner, the national insurance crime bureau, the national association of insurance commissioners, other law enforcement agent or agency, or another insurer under RCW 48.50.030, 48.50.040, 48.50.050, ~~((or))~~ 48.50.055, or section 6 of this act is immune from liability in any civil or criminal action, suit, or prosecution arising from the release of the information, unless actual malice on the part of the agent, broker, insurer, health care maintenance organization, health care service contractor, or authorized agency against the insured is shown.

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Sec. 15. RCW 48.50.075 and 1995 c 285 s 24 are each amended to read as follows:

In denying a claim, an insurer, health maintenance organization, or health care service contractor who relies upon a written opinion from an authorized agency specifically enumerated in RCW 48.50.020(1) (a) through (g) that criminal activity that is related to that claim is being investigated, or a crime has been charged, and that the claimant is a target of the investigation or has been charged with a crime, is not liable for bad faith or other noncontractual theory of damages as a result of this reliance.

Immunity under this section shall exist only so long as the incident for which the claimant may be responsible is under active investigation or prosecution, or the authorized agency states its position that the claim includes or is a result of criminal activity in which the claimant was a participant.

Sec. 16. RCW 10.93.020 and 2002 c 128 s 1 are each amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "General authority Washington law enforcement agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state, and any agency, department, or division of state government, having as its primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general, as distinguished from a limited authority Washington law enforcement agency, and any other unit of government expressly designated by statute as a general authority Washington law enforcement agency. The Washington state patrol and the department of fish and wildlife are general authority Washington law enforcement agencies.

(2) "Limited authority Washington law enforcement agency" means any agency, political subdivision, or unit of local government of this state, and any agency, department, or division of state government, having as one of its functions the apprehension or detection of persons committing infractions or violating the traffic or criminal laws relating to limited subject areas, including but not limited to, the state departments of natural resources and social and health services, the state gambling commission, the state lottery commission, the state parks and recreation commission, the state utilities and transportation commission, the state liquor control board, the office of the insurance commissioner, and the state department of corrections.

(3) "General authority Washington peace officer" means any full-time, fully compensated and elected, appointed, or employed officer of a general authority Washington law enforcement agency who is commissioned to enforce the criminal laws of the state of Washington generally.

(4) "Limited authority Washington peace officer" means any full-time, fully compensated officer of a limited authority Washington law enforcement agency empowered by that agency to detect or apprehend violators of the laws in some or all of the limited subject areas for which that agency is responsible. A limited authority Washington peace officer may be a specially commissioned Washington peace officer if otherwise qualified for such status under this chapter.

(5) "Specially commissioned Washington peace officer", for the purposes of this chapter, means any officer, whether part-time or full-time, compensated or not, commissioned by a general authority Washington law enforcement agency to enforce some or all of the criminal laws of the state of Washington, who does not qualify under this chapter as a general authority Washington peace officer for that commissioning agency, specifically including reserve peace officers, and specially commissioned full-time, fully compensated peace officers duly commissioned by the states of Oregon or Idaho or any such peace officer commissioned by a unit of local government of Oregon or Idaho. A reserve peace officer is an individual who is an officer of a Washington law enforcement agency who does not serve such agency on a full-time basis but who, when called by the agency into active

service, is fully commissioned on the same basis as full-time peace officers to enforce the criminal laws of the state.

(6) "Federal peace officer" means any employee or agent of the United States government who has the authority to carry firearms and make warrantless arrests and whose duties involve the enforcement of criminal laws of the United States.

(7) "Agency with primary territorial jurisdiction" means a city or town police agency which has responsibility for police activity within its boundaries; or a county police or sheriff's department which has responsibility with regard to police activity in the unincorporated areas within the county boundaries; or a statutorily authorized port district police agency or four-year state college or university police agency which has responsibility for police activity within the statutorily authorized enforcement boundaries of the port district, state college, or university.

(8) "Primary commissioning agency" means (a) the employing agency in the case of a general authority Washington peace officer, a limited authority Washington peace officer, an Indian tribal peace officer, or a federal peace officer, and (b) the commissioning agency in the case of a specially commissioned Washington peace officer (i) who is performing functions within the course and scope of the special commission and (ii) who is not also a general authority Washington peace officer, a limited authority Washington peace officer, an Indian tribal peace officer, or a federal peace officer.

(9) "Primary function of an agency" means that function to which greater than fifty percent of the agency's resources are allocated.

(10) "Mutual law enforcement assistance" includes, but is not limited to, one or more law enforcement agencies aiding or assisting one or more other such agencies through loans or exchanges of personnel or of material resources, for law enforcement purposes.

Sec. 17. RCW 42.56.400 and 2005 c 274 s 420 are each amended to read as follows:

The following information relating to insurance and financial institutions is exempt from disclosure under this chapter:

(1) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110;

(2) Information obtained and exempted or withheld from public inspection by the health care authority under RCW 41.05.026, whether retained by the authority, transferred to another state purchased health care program by the authority, or transferred by the authority to a technical review committee created to facilitate the development, acquisition, or implementation of state purchased health care under chapter 41.05 RCW;

(3) The names and individual identification data of all viators regulated by the insurance commissioner under chapter 48.102 RCW;

(4) Information provided under RCW 48.30A.045 through 48.30A.060;

(5) Information provided under RCW 48.05.510 through 48.05.535, 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600 through 48.46.625;

(6) Information gathered under chapter 19.85 RCW or RCW 34.05.328 that can be identified to a particular business;

(7) Examination reports and information obtained by the department of financial institutions from banks under RCW 30.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW 21.20.100, all of which is confidential and privileged information;

(8) Information provided to the insurance commissioner under RCW 48.110.040(3);

(9) Documents, materials, or information obtained by the insurance commissioner under RCW 48.02.065, all of which are confidential and privileged; ~~((and))~~

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(10) Confidential proprietary and trade secret information provided to the commissioner under RCW 48.31C.020 through 48.31C.050 and 48.31C.070; and

(11) Documents, materials, or information obtained by the insurance commissioner under section 7 of this act.

NEW SECTION. Sec. 18. A new section is added to chapter 42.17 RCW to read as follows:

Documents, materials, or information obtained by the insurance commissioner under section 7 of this act are exempt from disclosure under this chapter.

NEW SECTION. Sec. 19. 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. 20. Sections 1 through 13 and 19 of this act constitute a new chapter in Title 48 RCW.

NEW SECTION. Sec. 21. This act takes effect July 1, 2006."

Correct the title.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Fairley moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6234.

Senator Fairley spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Fairley that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6234.

The motion by Senator Fairley carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6234 by voice vote.

Senator Benton spoke against passage of the bill.

MOTION

On motion of Senator Weinstein, Senators Doumit and Prentice were excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6234, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6234, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 29; Nays, 18; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Brandland, Brown, Deccio, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Oke, Poulsen, Pridemore, Rasmussen, Regala, Rockefeller, Schmidt, Shin, Spanel, Thibaudeau and Weinstein - 29

Voting nay: Senators Benton, Carrell, Delvin, Finkbeiner, Hewitt, Honeyford, Johnson, McCaslin, Morton, Mulliken, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 18

Excused: Senators Benson and Prentice - 2

SUBSTITUTE SENATE BILL NO. 6234, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6248, with the following amendments{s} 6248 AMH H5464.1.

On page 2, line 6, strike "seven" and insert "fourteen" and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Haugen moved that the Senate concur in the House amendment(s) to Senate Bill No. 6248.

Senator Haugen spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Haugen that the Senate concur in the House amendment(s) to Senate Bill No. 6248.

The motion by Senator Haugen carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6248 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6248, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6248, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 46

Absent: Senator Brown - 1

Excused: Senators Benson and Prentice - 2

SENATE BILL NO. 6248, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Schoesler, Senators Hewitt and McCaslin were excused.

MOTION

On motion of Senator Weinstein, Senators Brown and Doumit were excused.

MESSAGE FROM THE HOUSE

February 28, 2006

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6373, with the following amendments{s} 6373 AMH HC H5356.1.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 18.20.290 and 2004 c 142 s 13 are each amended to read as follows:

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(1) When a boarding home contracts with the department to provide adult residential care services, enhanced adult residential care services, or assisted living services under chapter 74.39A RCW, the boarding home must hold a medicaid eligible resident's room or unit when short-term care is needed in a nursing home or hospital, the resident is likely to return to the boarding home, and payment is made under subsection (2) of this section.

(2) The medicaid resident's bed or unit shall be held for up to twenty days. The per day bed or unit hold compensation amount shall be seventy percent of the daily rate paid for the first seven days the bed or unit is held for the resident who needs short-term nursing home care or hospitalization. The rate for the eighth through the twentieth day a bed is held shall be established in rule, but shall be no lower than ten dollars per day the bed or unit is held.

(3) The boarding home may seek third-party payment to hold a bed or unit for twenty-one days or longer. The third-party payment shall not exceed the medicaid daily rate paid to the facility for the resident. If third-party payment is not available, the medicaid resident may return to the first available and appropriate bed or unit, if the resident continues to meet the admission criteria under this chapter.

~~((4) The department shall monitor the use and impact of the policy established under this section and shall report its findings to the appropriate committees of the senate and house of representatives by December 31, 2005.~~

~~—(5) This section expires June 30, 2006.)"~~

On page 1, line 2 of the title, after "unit;" strike the remainder of the title and insert "and amending RCW 18.20.290."

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Keiser moved that the Senate concur in the House amendment(s) to Senate Bill No. 6373.

Senator Keiser spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate concur in the House amendment(s) to Senate Bill No. 6373.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6373 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6373, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6373, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 44

Excused: Senators Benson, Brown, Hewitt, McCaslin and Prentice - 5

SENATE BILL NO. 6373, as amended by the House, having received the constitutional majority, was declared

passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 1, 2006

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6377, with the following amendment(s) 6377-S AMH EDAT AMH5374.1.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that chapter 15.36 RCW includes the regulation of raw milk and raw milk products including arrangements known as "cow shares" in which one or more individuals purchase one or more shares in a milk-producing animal in return for a portion of the milk that is produced. The legislature also finds that the agencies charged with protecting public health and safety need to have strong enforcement mechanisms and be able to respond rapidly, comprehensively, and effectively. It is not the intent of this act to prohibit either the sale of raw milk or cow share or similar arrangements by producers and processors who are properly licensed under chapter 15.36 RCW.

Sec. 2. RCW 15.36.012 and 1999 c 291 s 1 are each amended to read as follows:

For the purpose of this chapter:

"Adulterated milk" means milk that is deemed adulterated under appendix L of the PMO.

"Colostrum milk" means milk produced within ten days before or until practically colostrum free after parturition.

"DMO" means supplement I, the recommended sanitation ordinance for grade A condensed and dry milk products and condensed and dry whey, to the PMO published by the United States public health service, food and drug administration.

"Dairy farm" means a place or premises where one or more cows, goats, or other mammals are kept, a part or all of the milk or milk products from which is sold or offered for sale (~~to a~~ **milk processing plant, transfer station, or receiving station**).

"Dairy technician" means any person who takes samples of milk or cream or fluid derivatives thereof, on which sample tests are to be made as a basis of payment, or who grades, weighs, or measures milk or cream or the fluid derivatives thereof, the grade, weight, or measure to be used as a basis of payment, or who operates equipment wherein milk or products thereof are pasteurized.

"Degrade" means the lowering in grade from grade A to grade C.

"Department" means the state department of agriculture.

"Director" means the director of agriculture of the state of Washington or the director's duly authorized representative.

"Grade A milk processing plant" means any milk processing plant that meets all of the standards of the PMO to process grade A pasteurized milk or milk products.

"Grade A pasteurized milk" means grade A raw milk that has been pasteurized.

"Grade A raw milk" means raw milk produced upon dairy farms conforming with all of the items of sanitation contained in the PMO, in which the bacterial plate count does not exceed twenty thousand per milliliter and the coliform count does not exceed ten per milliliter as determined in accordance with RCW 15.36.201.

"Grade A raw milk for pasteurization" means raw milk produced upon dairy farms conforming with all of the same items of sanitation contained in the PMO of grade A raw milk,

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and the bacterial plate count, as delivered from the farm, does not exceed eighty thousand per milliliter as determined in accordance with RCW 15.36.201.

"Grade C milk" is milk that violates any of the requirements for grade A milk but that is not deemed to be adulterated.

"Milk" means the lacteal secretion, practically free of colostrum, obtained by the complete milking of one or more healthy cows, goats, or other mammals.

"Milk hauler" means a person who transports milk or milk products in bulk to or from a milk processing plant, receiving station, or transfer station.

"Milk processing" means the handling, preparing, packaging, or processing of milk in any manner in preparation for sale as food, as defined in chapter 69.04 RCW. Milk processing does not include milking or producing milk on a dairy farm that is shipped to a milk processing plant for further processing.

"Milk processing plant" means a place, premises, or establishment where milk or milk products are collected, handled, processed, stored, bottled, pasteurized, aseptically processed, bottled, or prepared for distribution, except an establishment that merely receives the processed milk products and serves them or sells them at retail.

"Milk products" means the product of a milk manufacturing process.

"Misbranded milk" means milk or milk products that carries a grade label unless such grade label has been awarded by the director and not revoked, or that fails to conform in any other respect with the statements on the label.

"Official laboratory" means a biological, chemical, or physical laboratory that is under the direct supervision of the state or a local regulatory agency.

"Officially designated laboratory" means a commercial laboratory authorized to do official work by the department, or a milk industry laboratory officially designated by the department for the examination of grade A raw milk for pasteurization and commingled milk tank truck samples of raw milk for antibiotic residues and bacterial limits.

"PMO" means the grade "A" pasteurized milk ordinance published by the United States public health service, food and drug administration.

"Pasteurized" means the process of heating every particle of milk or milk product in properly designed and operated equipment to the temperature and time standards specified in the PMO.

"Person" means an individual, partnership, firm, corporation, company, trustee, or association.

"Producer" means a person or organization who operates a dairy farm and provides, sells, or offers milk for sale (~~to a milk processing plant, receiving station, or transfer station~~).

"Receiving station" means a place, premises, or establishment where raw milk is received, collected, handled, stored, or cooled and prepared for further transporting.

"Sale" means selling, offering for sale, holding for sale, preparing for sale, distributing, dispensing, delivering, supplying, trading, bartering, offering a gift as an inducement for sale of, and advertising for sale in any media.

"Transfer station" means any place, premises, or establishment where milk or milk products are transferred directly from one milk tank truck to another.

"Wash station" means a place, facility, or establishment where milk tanker trucks are cleaned in accordance with the standards of the PMO.

Sec. 3. RCW 15.36.111 and 1999 c 291 s 6 are each amended to read as follows:

(1) The director shall inspect all dairy farms and all milk processing plants prior to issuance of a license under this chapter and at a frequency determined by the director by rule: **PROVIDED,** That the director may accept the results of periodic industry inspections of producer dairies if such inspections have been officially checked periodically and found satisfactory. In case the director discovers the violation of any item of grade requirement, he or she shall make a second inspection after a lapse of such time as he or she deems necessary for the defect to be remedied, but not before the lapse of three days, and the second inspection shall be used in determining compliance with the grade requirements of this chapter. Whenever there is any violation of the same requirement of this chapter on the second inspection, the director may initiate proceedings to degrade, suspend the license, or assess a civil penalty.

(2) One copy of the inspection report detailing the grade requirement violations shall be posted by the director in a conspicuous place upon an inside wall of the milk tank room or a mutually agreed upon location on a dairy farm or given to an operator of the milk processing plant, and said inspection report shall not be defaced or removed by any person except the director. Another copy of the inspection report shall be filed with the records of the director.

(3) Every milk producer and milk processing plant shall permit the director access to all parts of the establishment during the working hours of the producer or milk processing plant, which shall at a minimum include the hours from 8 a.m. to 5 p.m., and every milk processing plant shall furnish the director, upon his or her request, for official use only, samples of any milk product for laboratory analysis, and a true statement of the actual quantities of milk and milk products of each grade purchased and sold~~((together with a list of all sources, records of inspections and tests, and recording thermometer charts))~~.

(4) The director shall have access to all parts of a dairy farm or facility that is not licensed as a milk producer or milk processing plant if the director has information that the dairy farm or facility is engaged in activities that require a license under this chapter. The director shall have access during the working hours of the dairy farm or facility, which shall at a minimum include the hours from 8 a.m. to 5 p.m. The director shall have the authority to take samples of milk or any milk products and water and environmental samples for laboratory analysis. For all establishments subject to this subsection and subsection (3) of this section, the director shall have access to records including, but not limited to, customer lists, milk production records, temperature records, and records of inspections and tests.

(5) If the director is denied access to a dairy farm or milk processing plant, the director may apply to a court of competent jurisdiction for a search warrant authorizing access to the property and facilities for purposes of conducting tests and inspections, taking samples, and examining records. To show that access is denied, the director shall file with the court an affidavit or declaration containing a description of his or her attempts to notify and locate the owner or the owner's agent and to secure consent. Upon application, the court may issue a search warrant for the purposes requested.

Sec. 4. RCW 15.36.511 and 1999 c 291 s 24 are each amended to read as follows:

(1) It is unlawful for any person to:

((+)) (a) Interfere with or obstruct any person in the performance of official duties under this chapter;

((=)) (b) Employ a tester, sampler, weigher, grader, or pasteurizer who is not licensed as a dairy technician;

~~((3))~~ (c) Alter or tamper with a seal placed by the director;
~~((or~~

~~((4))~~ (d) Alter or tamper with a sample of milk or milk products taken or sealed by the director; or

(e) Operate as a milk producer or milk processing plant without obtaining a license from the director.

(2) Except as provided under RCW ~~((15.35.131))~~ 15.36.131, it is unlawful for a milk processing plant to accept milk from a person not licensed as a producer or milk processor.

NEW SECTION. Sec. 5. A new section is added to chapter 15.36 RCW to read as follows:

The director may issue a cease and desist order to any person whom the director has reason to believe is engaged in an activity for which a license is required by this chapter. The person to whom such notice is issued may request an adjudicative proceeding to contest the order.

NEW SECTION. Sec. 6. A new section is added to chapter 15.36 RCW to read as follows:

(1) When the director has probable cause to believe that milk or milk products are being sold, distributed, stored, or transported in violation of this chapter or rules adopted under this chapter, the director may issue and serve upon the owner or custodian of the milk or milk products a written notice of embargo and order prohibiting the sale of the milk or milk products. If the owner or custodian is not available for service, the director may attach the notice of embargo and order prohibiting sale to the container holding the milk or milk products. The milk or milk products shall not be sold, used, or removed until this chapter has been complied with and the milk or milk products have been released from embargo under conditions specified by the director in writing.

(2) The department may issue a destruction and disposal order covering any embargoed milk or milk products. The destruction and disposal shall occur at the cost of the owner or custodian.

(3) The person to whom the notice of embargo and order prohibiting sale was issued or the person to whom a destruction or disposal order was issued may request an adjudicative proceeding to contest the order.

(4) A state court shall not allow the recovery of damages from an administrative action under this section if the court finds there was probable cause for the action.

NEW SECTION. Sec. 7. A new section is added to chapter 15.36 RCW to read as follows:

(1) It is unlawful for any person to sell raw milk from a dairy farm that is not licensed as a milk producer or a milk processing plant under this chapter.

(2) The sale of raw milk from a dairy farm that is not licensed as a milk producer and a milk processing plant under this chapter constitutes:

(a) For the first offense, a misdemeanor; and

(b) For the second and subsequent offenses, a gross misdemeanor punishable according to chapter 9A.20 RCW.

(3) Neither the issuance of a cease and desist order nor payment of a civil penalty relieves the person so selling raw milk from criminal prosecution, but the remedy of a cease and desist order or civil penalty is in addition to any criminal liability.

NEW SECTION. Sec. 8. (1) The legislature finds that small-scale dairies have varying degrees of familiarity with statutory and regulatory requirements and the range of acceptable methods they can use to meet those requirements. The legislature therefore directs the department of agriculture to convene a work group to identify and help resolve obstacles faced by small-scale dairies in their efforts to become licensed

as milk producers and milk processing plants.

(2) The director of the department of agriculture shall include in the work group representatives of small-scale and conventional dairies, public health officials, the cooperative extension, industry associations, consumers, and other stakeholders as the director deems appropriate. Representatives from the department's food safety and small farms direct marketing programs shall staff the work group.

(3) The work group shall:

(a) Identify barriers to small-scale dairies in achieving licensing;

(b) Examine potential solutions to those barriers that are size-appropriate and economically feasible;

(c) Identify sources of technical assistance and information on best management practices; and

(d) Recommend other actions that will assist small-scale dairies to become licensed.

(4) By December 1, 2006, the department of agriculture and representatives of the work group shall report on their work and recommendations to appropriate standing committees of the legislature."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Rasmussen moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6377.

Senator Rasmussen spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Rasmussen that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6377.

The motion by Senator Rasmussen carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6377 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6377, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6377, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 1; Excused, 5.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 43

Absent: Senator Deccio - 1

Excused: Senators Benson, Brown, Hewitt, McCaslin and Prentice - 5

SUBSTITUTE SENATE BILL NO. 6377, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

FIFTY-FIFTH DAY, MARCH 4, 2006

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March 2, 2006

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6555, with the following amendments{s} 6555-S AMH APP H5454.1.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 43.110 RCW to read as follows:

(1) The municipal research council shall contract for the provision of research and services to special purpose districts. A contract shall be made with a state agency, educational institution, or private consulting firm, that in the judgment of council members is qualified to provide such research and services.

(2) Research and services to special purpose districts shall consist of: (a) Studying and researching issues relating to special purpose district government; (b) acquiring, preparing, and distributing publications related to special purpose districts; and (c) furnishing legal, technical, consultative, and field services to special purpose districts concerning issues relating to special purpose district government.

(3) The activities, programs, and services of the municipal research council to special purpose districts shall be carried on in cooperation with the associations representing the various special purpose districts. Services to special purpose districts shall be based upon the moneys appropriated to the municipal research council from the special purpose district research services account under section 2 of this act.

NEW SECTION. Sec. 2. A new section is added to chapter 43.110 RCW to read as follows:

A special account is created in the state treasury to be known as the special purpose district research services account. The account shall consist of all money transferred or appropriated to the account by the legislature. Moneys in the account may be spent only after appropriation. The account is subject to the allotment process under chapter 43.88 RCW.

Moneys in the special purpose district research services account may be expended only to finance the costs of special purpose district research and services.

Sec. 3. RCW 66.08.190 and 2003 1st sp.s. c 25 s 927 are each amended to read as follows:

(1) Except for revenues generated by the 2003 surcharge of \$0.42/liter on retail sales of spirits that shall be distributed to the state general fund during the 2003-2005 biennium, when excess funds are distributed, all moneys subject to distribution shall be disbursed as follows:

(a) Three-tenths of one percent to border areas under RCW 66.08.195; and

(b) From the amount remaining after distribution under (a) of this subsection, (i) fifty percent to the general fund of the state, (ii) ten percent to the counties of the state, and (iii) forty percent to the incorporated cities and towns of the state.

(2) During the months of June, September, December, and March of each year, prior to disbursing the distribution to incorporated cities and towns under subsection (1)(b) of this section, the treasurer shall deduct from that distribution an amount that will fund that quarter's allotments under RCW 43.88.110 from any legislative appropriation from the city and town research services account. The treasurer shall deposit the amount deducted into the city and town research services account.

(3) During the months of June, September, December, and March of each year, prior to disbursing the distribution to the general fund of the state under subsection (1)(b) of this section, the treasurer shall deduct from that distribution an amount that will fund that quarter's allotments under RCW 43.88.110 from any legislative appropriation from the special purpose district research services account. The treasurer shall deposit the amount deducted into the special purpose district research services account.

(4) The governor may notify and direct the state treasurer to withhold the revenues to which the counties and cities are

entitled under this section if the counties or cities are found to be in noncompliance pursuant to RCW 36.70A.340.

NEW SECTION. Sec. 4. By June 30, 2010, the municipal research council shall prepare a report on services provided to special purpose districts under section 1 of this act, and shall provide this report to the joint legislative audit and review committee."

Correct the title and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Fraser moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6555.

Senator Fraser spoke in favor of the motion.

MOTION

On motion of Senator Honeyford, Senator Deccio was excused.

MOTION

The President declared the question before the Senate to be the motion by Senator Fraser that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6555.

The motion by Senator Fraser carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6555 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6555, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6555, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Excused: Senators Benson, Hewitt, McCaslin and Prentice - 4

SUBSTITUTE SENATE BILL NO. 6555, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 2, 2006

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6568, with the following amendments{s} 6568 AMH JUDI ADAM 076.

On page 1, line 12, after "Knowingly" strike "or with the intent to."

On page 1, line 13, after "spectator" insert "of"

On page 1, line 14, after "furtherance of" insert "," and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

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MOTION

Senator Kline moved that the Senate concur in the House amendment(s) to Senate Bill No. 6568.

Senators Kline and Johnson spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Kline that the Senate concur in the House amendment(s) to Senate Bill No. 6568.

The motion by Senator Kline carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6568 by voice vote.

MOTION

On motion of Senator Regala, Senator Doumit was excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6568, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6568, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 44

Excused: Senators Benson, Doumit, Hewitt, McCaslin and Prentice - 5

SENATE BILL NO. 6568, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

MOTION

Senator Jacobsen moved adoption of the following resolution:

SENATE RESOLUTION
8731

By Senator Jacobsen

WHEREAS, Seattle resident Kevin Li has devoted countless hours to the improvement of Washington's wildlife, including aiding the recovery of local populations of Purple Martin Swallows; and

WHEREAS, The bird species, *Progne subis arboricola*, commonly known as the Western Purple Martin, is an important example of the avian wildlife native to Washington State; and

WHEREAS, The Purple Martin is the largest of the eight North American species of the Swallow family characterized by its gurgling song and males having dark purple feathers; and

WHEREAS, The Purple Martin in Washington usually lives near water and naturally nests in tree cavities made by primary

excavators, including woodpeckers, during the summer before migrating to South America for the winter; and

WHEREAS, As few as five Purple Martins are known to have nested in natural cavities in Washington in the most recent summer season, most of them in the area near Fort Lewis; and

WHEREAS, The vast majority of Purple Martins live in artificial nest boxes provided by dedicated area residents who commit their time and energy to nurturing these beautiful birds; and

WHEREAS, Kevin Li took responsibility for building dozens of habitats for Purple Martins in the Seattle Area and monitoring the birds' activities and behavior, making a remarkable impact on the shorelines and beaches of Puget Sound; and

WHEREAS, Populations of Purple Martins in this state continue to recover since all but disappearing from the region beginning approximately in 1940; and

WHEREAS, The current statewide estimate of Purple Martins is 700 nesting pairs, 500 residing in the Puget Trough and 200 residing along the lower Columbia River, a remarkable beginning to the recovery of a species whose Washington population once numbered in the thousands; and

WHEREAS, Tragically on January 28, 2006, Kevin Li lost his life while scuba diving at the Keystone ferry landing, despite the courageous rescue effort made by the captain and crew of the Klickitat Ferry; and

WHEREAS, The impact of Kevin Li's work with Purple Martins will be appreciated for generations to come by anyone who notices the hundreds of Martins that will continue to flock to Washington as long as there are dedicated individuals continuing with this important work; and

WHEREAS, A comprehensive survey of Purple Martins in Washington State has never been conducted, though supporters of these birds have persistently requested that such a survey be done;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize the Western Purple Martin, the vital work of Kevin Li, and the continued efforts of committed citizens to restore these birds to their former prominence in the ecosystem of Washington State; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the family of Kevin Li and to Stan Kostka of the Western Purple Martin Working Group.

Senator Jacobsen spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8731.

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

MOTION

At 12:33 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 1:27 p.m. by President Owen.

MOTION

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

MESSAGE FROM THE HOUSE

March 4, 2006

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 6885,

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and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

March 2, 2006

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5385, with the following amendments{s} 5385-S.E AMH NREP H5335.

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1 The legislature finds that:

(1) The land, water, and other resources of Washington are being severely impacted by the invasion of an increasing number of harmful invasive plant and animal species.

(2) These impacts are resulting in damage to Washington's environment and causing economic hardships.

(3) The multitude of public and private organizations with an interest in controlling and preventing the spread of harmful invasive species in Washington need a mechanism for cooperation, communication, collaboration, and developing a statewide plan of action to meet these threats.

NEW SECTION. Sec. 2 (1) There is created the Washington invasive species council to exist until December 31, 2011. Staff support to the council shall be provided by the committee and from the agencies represented on the council. For administrative purposes, the council shall be located within the committee.

(2) The purpose of the council is to provide policy level direction, planning, and coordination for combating harmful invasive species throughout the state and preventing the introduction of others that may be potentially harmful.

(3) The council is a joint effort between local, tribal, state, and federal governments, as well as the private sector and nongovernmental interests. The purpose of the council is to foster cooperation, communication, and coordinated approaches that support local, state, and regional initiatives for the prevention and control of invasive species.

(4) For the purposes of this chapter, "invasive species" include nonnative organisms that cause economic or environmental harm and are capable of spreading to new areas of the state. "Invasive species" does not include domestic livestock, intentionally planted agronomic crops, or nonharmful exotic organisms.

NEW SECTION. Sec. 3 (1) Membership in the council includes a representative from the following entities:

(a) The department of agriculture, represented by the director or the director's designee;

(b) The department of fish and wildlife, represented by the director or the director's designee;

(c) The department of ecology, represented by the director or the director's designee;

(d) The department of natural resources, represented by the commissioner or the commissioner's designee;

(e) The department of transportation, represented by the secretary or the secretary's designee;

(f) The Washington state noxious weed control board, appointed by the board;

(g) A county located east of the crest of the Cascade mountains, appointed by the other members of the council; and

(h) A county located west of the crest of the Cascade mountains, appointed by the other members of the council.

(2) The councilmembers may add members to the council as the councilmembers deem appropriate to accomplish its goals.

(3) The council must invite one representative each from the United States department of agriculture, the United States fish and wildlife service, the United States environmental protection

agency, and the United States coast guard to participate on the council in a nonvoting, ex officio capacity.

(4) A representative of the office of the governor must convene the first meeting of the council and serve as chair until the council selects a chair. At the first meeting of the council, the council shall address issues including, but not limited to, voting methods, meeting schedules, and the need for and use of advisory and technical committees.

NEW SECTION. Sec. 4 The council's goals are to:

(1) Minimize the effects of harmful invasive species on Washington's citizens and ensure the economic and environmental well-being of the state;

(2) Serve as a forum for identifying and understanding invasive species issues from all perspectives;

(3) Serve as a forum to facilitate the communication, cooperation, and coordination of local, tribal, state, federal, private, and nongovernmental entities for the prevention, control, and management of nonnative invasive species;

(4) Serve as an avenue for public outreach and for raising public awareness of invasive species issues;

(5) Develop and implement a statewide invasive species strategic plan as described in this chapter;

(6) Review the current funding mechanisms and levels for state agencies to manage noxious weeds on the lands under their authority;

(7) Make recommendations for legislation necessary to carry out the purposes of this chapter;

(8) Establish criteria for the prioritization of invasive species response actions and projects; and

(9) Utilizing the process described in subsection (8) of this section, select at least one project per year from the strategic plan for coordinated action by the Washington invasive species councilmember entities.

NEW SECTION. Sec. 5 (1) The council shall develop and periodically update a statewide strategic plan for addressing invasive species. The strategic plan should incorporate the reports and activities of the aquatic nuisance species committee, the state noxious weed control board, and other appropriate reports and activities. In addition, the council must coordinate with the biodiversity council created in Executive Order 04-02 to ensure that a statewide strategy for the control of invasive species is integrated into the thirty-year strategy for biodiversity conservation that the biodiversity council must submit to the legislature in 2007.

(2) The strategic plan must, at a minimum, address:

(a) Statewide coordination and intergovernmental cooperation;

(b) Prevention of new biological invasions through deliberate or unintentional introduction;

(c) Inventory and monitoring of invasive species;

(d) Early detection of and rapid response to new invasions;

(e) Control, management, and eradication of established populations of invasive species;

(f) Projects that can be implemented during the period covered by the strategic plan for the control, management, and eradication of new or established populations of invasive species;

(g) Revegetation, reclamation, or restoration of native species following control or eradication of invasive species;

(h) Tools that can be made available to assist state agencies that are responsible for managing public land to control invasive noxious weeds and recommendations as to how the agencies should be held responsible for the failure to control invasive noxious weeds;

(i) Research and public education;

(j) Funding and resources available for invasive species prevention, control, and management; and

(k) Recommendations for legislation necessary to carry out the purposes of this chapter.

(3) The strategic plan must be updated at least once every three years following its initial development. The strategic plan must be submitted to the

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governor and appropriate committees of the legislature by September 15th of each applicable year. The council shall complete the initial strategic plan within two years of the effective date of this section.

(4) Each state department and agency named to the council shall, consistent with state law, make best efforts to implement elements of the completed plan that are applicable to the department or agency.

NEW SECTION. Sec. 6 (1) The council shall submit an annual report of its activities to the governor and the relevant policy committees of the senate and house of representatives by December 15th of each year. The annual report must include an evaluation of progress made in the preceding year to implement or carry out the strategic plan and an identification of projects from the strategic plan that will be a focus for the following year.

(2) Prior to the start of the 2011 legislative session, the council must prepare a report to the appropriate committees of the legislature that makes recommendations as to the extension or modification of the council.

NEW SECTION. Sec. 7 The council may establish advisory and technical committees that it considers necessary to aid and advise the council in the performance of its functions. The committees may be continuing or temporary committees. The council shall determine the representation, membership, terms, and organization of the committees and appoint their members.

NEW SECTION. Sec. 8 The invasive species council account is created in the custody of the state treasurer. All receipts from appropriations, gifts, grants, and donations must be deposited into the account. Expenditures from the account may be used only to carry out the purposes of the council. The account is subject to allotment procedures under chapter 43.88 RCW and the approval of the director of the committee is required for expenditures. All expenditures must be directed by the council.

Sec. 9 RCW 79A.25.010 and 1989 c 237 s 2 are each amended to read as follows:

Definitions: As used in this chapter:

(1) "Marine recreation land" means any land with or without improvements which (a) provides access to, or in whole or in part borders on, fresh or salt water suitable for recreational use by watercraft, or (b) may be used to create, add to, or make more usable, bodies of water, waterways, or land, for recreational use by watercraft.

(2) "Public body" means any county, city, town, port district, park and recreation district, metropolitan park district, or other municipal corporation which is authorized to acquire or improve public outdoor recreation land, and shall also mean Indian tribes now or hereafter recognized as such by the federal government for participation in the land and water conservation program.

(3) "Tax on marine fuel" means motor vehicle fuel tax which is (a) tax on fuel used in, or sold or distributed for use in, any watercraft, (b) refundable pursuant to chapter 82.36 RCW, and (c) paid to the director of licensing with respect to taxable sales, distributions, or uses occurring on or after December 3, 1964.

(4) "Watercraft" means any boat, vessel, or other craft used for navigation on or through water.

(5) "Committee" means the interagency committee for outdoor recreation.

(6) "Director" means the director of the interagency committee for outdoor recreation.

(7) "Council" means the Washington invasive species council created in section 2 of this act.

NEW SECTION. Sec. 10 Section 8 of this act expires December 31, 2011.

NEW SECTION. Sec. 11 Sections 1 through 8 of this act are each added to chapter 79A.25 RCW." and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Jacobsen moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5385. Senators Jacobsen and Oke spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Jacobsen that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5385.

The motion by Senator Jacobsen carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5385 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5385, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5385, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 37; Nays, 5; Absent, 3; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Oke, Parlette, Pflug, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Sheldon, Shin, Spanel, Swecker, Thibaudeau, Weinstein and Zarelli - 37

Voting nay: Senators Honeyford, Morton, Mulliken, Schoesler and Stevens - 5

Absent: Senators Finkbeiner, Haugen and Poulsen - 3

Excused: Senators Benson, Hewitt, McCaslin and Prentice - 4

ENGROSSED SUBSTITUTE SENATE BILL NO. 5385, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Mulliken, Senator Hewitt was excused.

MOTION

On motion of Senator Regala, Senators Doumit, Poulsen and Haugen were excused.

MESSAGE FROM THE HOUSE

February 28, 2006

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6106, with the following amendments{s} 6106-S.E AMH HC H5385.1.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The purpose of this act is to aid law enforcement in combating crime through the rapid identification of all persons who require medical treatment as a result of a criminal act and to assist in the rapid identification of human remains.

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Sec. 2. RCW 70.02.010 and 2005 c 468 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) "Audit" means an assessment, evaluation, determination, or investigation of a health care provider by a person not employed by or affiliated with the provider to determine compliance with:

(a) Statutory, regulatory, fiscal, medical, or scientific standards;

(b) A private or public program of payments to a health care provider; or

(c) Requirements for licensing, accreditation, or certification.

(2) "Directory information" means information disclosing the presence, and for the purpose of identification, the name, location within a health care facility, and the general health condition of a particular patient who is a patient in a health care facility or who is currently receiving emergency health care in a health care facility.

(3) "Federal, state, or local law enforcement authorities" means an officer of any agency or authority in the United States, a state, a tribe, a territory, or a political subdivision of a state, a tribe, or a territory who is empowered by law to: (a) Investigate or conduct an official inquiry into a potential criminal violation of law; or (b) prosecute or otherwise conduct a criminal proceeding arising from an alleged violation of law.

(4) "General health condition" means the patient's health status described in terms of "critical," "poor," "fair," "good," "excellent," or terms denoting similar conditions.

~~((+))~~ (5) "Health care" means any care, service, or procedure provided by a health care provider:

(a) To diagnose, treat, or maintain a patient's physical or mental condition; or

(b) That affects the structure or any function of the human body.

~~((+))~~ (6) "Health care facility" means a hospital, clinic, nursing home, laboratory, office, or similar place where a health care provider provides health care to patients.

~~((+))~~ (7) "Health care information" means any information, whether oral or recorded in any form or medium, that identifies or can readily be associated with the identity of a patient and directly relates to the patient's health care, including a patient's deoxyribonucleic acid and identified sequence of chemical base pairs. The term includes any required accounting of disclosures of health care information.

~~((+))~~ (8) "Health care operations" means any of the following activities of a health care provider, health care facility, or third-party payor to the extent that the activities are related to functions that make an entity a health care provider, a health care facility, or a third-party payor:

(a) Conducting: Quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, if the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities; population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives; and related functions that do not include treatment;

(b) Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance and third-party payor performance, conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of nonhealth care professionals, accreditation, certification, licensing, or credentialing activities;

(c) Underwriting, premium rating, and other activities relating to the creation, renewal, or replacement of a contract of health insurance or health benefits, and ceding, securing, or

placing a contract for reinsurance of risk relating to claims for health care, including stop-loss insurance and excess of loss insurance, if any applicable legal requirements are met;

(d) Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs;

(e) Business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating the health care facility or third-party payor, including formulary development and administration, development, or improvement of methods of payment or coverage policies; and

(f) Business management and general administrative activities of the health care facility, health care provider, or third-party payor including, but not limited to:

(i) Management activities relating to implementation of and compliance with the requirements of this chapter;

(ii) Customer service, including the provision of data analyses for policy holders, plan sponsors, or other customers, provided that health care information is not disclosed to such policy holder, plan sponsor, or customer;

(iii) Resolution of internal grievances;

(iv) The sale, transfer, merger, or consolidation of all or part of a health care provider, health care facility, or third-party payor with another health care provider, health care facility, or third-party payor or an entity that following such activity will become a health care provider, health care facility, or third-party payor, and due diligence related to such activity; and

(v) Consistent with applicable legal requirements, creating deidentified health care information or a limited dataset and fund-raising for the benefit of the health care provider, health care facility, or third-party payor.

~~((+))~~ (9) "Health care provider" means a person who is licensed, certified, registered, or otherwise authorized by the law of this state to provide health care in the ordinary course of business or practice of a profession.

~~((+))~~ (10) "Institutional review board" means any board, committee, or other group formally designated by an institution, or authorized under federal or state law, to review, approve the initiation of, or conduct periodic review of research programs to assure the protection of the rights and welfare of human research subjects.

~~((+))~~ (11) "Maintain," as related to health care information, means to hold, possess, preserve, retain, store, or control that information.

~~((+))~~ (12) "Patient" means an individual who receives or has received health care. The term includes a deceased individual who has received health care.

~~((+))~~ (13) "Payment" means:

(a) The activities undertaken by:

(i) A third-party payor to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits by the third-party payor; or

(ii) A health care provider, health care facility, or third-party payor, to obtain or provide reimbursement for the provision of health care; and

(b) The activities in (a) of this subsection that relate to the patient to whom health care is provided and that include, but are not limited to:

(i) Determinations of eligibility or coverage, including coordination of benefits or the determination of cost-sharing amounts, and adjudication or subrogation of health benefit claims;

(ii) Risk adjusting amounts due based on enrollee health status and demographic characteristics;

(iii) Billing, claims management, collection activities, obtaining payment under a contract for reinsurance, including stop-loss insurance and excess of loss insurance, and related health care data processing;

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(iv) Review of health care services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges;

(v) Utilization review activities, including precertification and preauthorization of services, and concurrent and retrospective review of services; and

(vi) Disclosure to consumer reporting agencies of any of the following health care information relating to collection of premiums or reimbursement:

(A) Name and address;

(B) Date of birth;

(C) Social security number;

(D) Payment history;

(E) Account number; and

(F) Name and address of the health care provider, health care facility, and/or third-party payor.

~~((13))~~ (14) "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

~~((14))~~ (15) "Reasonable fee" means the charges for duplicating or searching the record, but shall not exceed sixty-five cents per page for the first thirty pages and fifty cents per page for all other pages. In addition, a clerical fee for searching and handling may be charged not to exceed fifteen dollars. These amounts shall be adjusted biennially in accordance with changes in the consumer price index, all consumers, for Seattle-Tacoma metropolitan statistical area as determined by the secretary of health. However, where editing of records by a health care provider is required by statute and is done by the provider personally, the fee may be the usual and customary charge for a basic office visit.

~~((15))~~ (16) "Third-party payor" means an insurer regulated under Title 48 RCW authorized to transact business in this state or other jurisdiction, including a health care service contractor, and health maintenance organization; or an employee welfare benefit plan; or a state or federal health benefit program.

~~((16))~~ (17) "Treatment" means the provision, coordination, or management of health care and related services by one or more health care providers or health care facilities, including the coordination or management of health care by a health care provider or health care facility with a third party; consultation between health care providers or health care facilities relating to a patient; or the referral of a patient for health care from one health care provider or health care facility to another.

Sec. 3. RCW 70.02.050 and 2005 c 468 s 4 are each amended to read as follows:

(1) A health care provider or health care facility may disclose health care information about a patient without the patient's authorization to the extent a recipient needs to know the information, if the disclosure is:

(a) To a person who the provider or facility reasonably believes is providing health care to the patient;

(b) To any other person who requires health care information for health care education, or to provide planning, quality assurance, peer review, or administrative, legal, financial, actuarial services to, or other health care operations for or on behalf of the health care provider or health care facility; or for assisting the health care provider or health care facility in the delivery of health care and the health care provider or health care facility reasonably believes that the person:

(i) Will not use or disclose the health care information for any other purpose; and

(ii) Will take appropriate steps to protect the health care information;

(c) To any other health care provider or health care facility reasonably believed to have previously provided health care to the patient, to the extent necessary to provide health care to the patient, unless the patient has instructed the health care provider or health care facility in writing not to make the disclosure;

(d) To any person if the health care provider or health care facility reasonably believes that disclosure will avoid or minimize an imminent danger to the health or safety of the patient or any other individual, however there is no obligation under this chapter on the part of the provider or facility to so disclose;

(e) To immediate family members of the patient, or any other individual with whom the patient is known to have a close personal relationship, if made in accordance with good medical or other professional practice, unless the patient has instructed the health care provider or health care facility in writing not to make the disclosure;

(f) To a health care provider or health care facility who is the successor in interest to the health care provider or health care facility maintaining the health care information;

(g) For use in a research project that an institutional review board has determined:

(i) Is of sufficient importance to outweigh the intrusion into the privacy of the patient that would result from the disclosure;

(ii) Is impracticable without the use or disclosure of the health care information in individually identifiable form;

(iii) Contains reasonable safeguards to protect the information from redisclosure;

(iv) Contains reasonable safeguards to protect against identifying, directly or indirectly, any patient in any report of the research project; and

(v) Contains procedures to remove or destroy at the earliest opportunity, consistent with the purposes of the project, information that would enable the patient to be identified, unless an institutional review board authorizes retention of identifying information for purposes of another research project;

(h) To a person who obtains information for purposes of an audit, if that person agrees in writing to:

(i) Remove or destroy, at the earliest opportunity consistent with the purpose of the audit, information that would enable the patient to be identified; and

(ii) Not to disclose the information further, except to accomplish the audit or report unlawful or improper conduct involving fraud in payment for health care by a health care provider or patient, or other unlawful conduct by the health care provider;

(i) To an official of a penal or other custodial institution in which the patient is detained;

(j) To provide directory information, unless the patient has instructed the health care provider or health care facility not to make the disclosure;

(k) To fire, police, sheriff, or another public authority, that brought, or caused to be brought, the patient to the health care facility or health care provider if the disclosure is limited to the patient's name, residence, sex, age, occupation, condition, diagnosis, estimated or actual discharge date, or extent and location of injuries as determined by a physician, and whether the patient was conscious when admitted;

(l) To federal, state, or local law enforcement authorities and the health care provider, health care facility, or third-party payor believes in good faith that the health care information disclosed constitutes evidence of criminal conduct that occurred on the premises of the health care provider, health care facility, or third-party payor;

(m) To another health care provider, health care facility, or third-party payor for the health care operations of the health care provider, health care facility, or third-party payor that receives the information, if each entity has or had a relationship with the patient who is the subject of the health care information being requested, the health care information pertains to such relationship, and the disclosure is for the purposes described in RCW 70.02.010~~((7))~~ (8) (a) and (b); or

(n) For payment.

(2) A health care provider shall disclose health care information about a patient without the patient's authorization if the disclosure is:

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(a) To federal, state, or local public health authorities, to the extent the health care provider is required by law to report health care information; when needed to determine compliance with state or federal licensure, certification or registration rules or laws; or when needed to protect the public health;

(b) To federal, state, or local law enforcement authorities to the extent the health care provider is required by law;

(c) To federal, state, or local law enforcement authorities, upon receipt of a written or oral request made to a nursing supervisor, administrator, or designated privacy official, in a case in which the patient is being treated or has been treated for a bullet wound, gunshot wound, powder burn, or other injury arising from or caused by the discharge of a firearm, or an injury caused by a knife, an ice pick, or any other sharp or pointed instrument which federal, state, or local law enforcement authorities reasonably believe to have been intentionally inflicted upon a person, or a blunt force injury that federal, state, or local law enforcement authorities reasonably believe resulted from a criminal act, the following information, if known:

- (i) The name of the patient;
- (ii) The patient's residence;
- (iii) The patient's sex;
- (iv) The patient's age;
- (v) The patient's condition;
- (vi) The patient's diagnosis, or extent and location of injuries as determined by a health care provider;
- (vii) Whether the patient was conscious when admitted;
- (viii) The name of the health care provider making the determination in (c)(v), (vi), and (vii) of this subsection;
- (ix) Whether the patient has been transferred to another facility; and
- (x) The patient's discharge time and date;

(d) To county coroners and medical examiners for the investigations of deaths;

~~((+))~~ (e) Pursuant to compulsory process in accordance with RCW 70.02.060.

(3) All state or local agencies obtaining patient health care information pursuant to this section shall adopt rules establishing their record acquisition, retention, and security policies that are consistent with this chapter.

Sec. 4. RCW 68.50.320 and 2001 c 223 s 1 are each amended to read as follows:

When a person reported missing has not been found within thirty days of the report, the sheriff, chief of police, county coroner or county medical examiner, or other law enforcement authority initiating and conducting the investigation for the missing person shall ask the missing person's family or next of kin to give written consent to contact the dentist or dentists of the missing person and request the person's dental records.

The missing person's dentist or dentists shall provide diagnostic quality copies of the missing person's dental records or original dental records to the sheriff, chief of police, county coroner or county medical examiner, or other law enforcement authority, when presented with the written consent from the missing person's family or next of kin or with a statement from the sheriff, chief of police, county coroner or county medical examiner, or other law enforcement authority that the missing person's family or next of kin could not be located in the exercise of due diligence or that the missing person's family or next of kin refuse to consent to the release of the missing person's dental records and there is reason to believe that the missing person's family or next of kin may have been involved in the missing person's disappearance.

When a person reported missing has not been found within thirty days, the sheriff, chief of police, or other law enforcement authority initiating and conducting the investigation for the missing person shall confer with the county coroner or medical examiner prior to the preparation of a missing person's report. After conferring with the coroner or medical examiner, the sheriff, chief of police, or other law enforcement authority shall

submit a missing person's report and the dental records received under this section to the dental identification system of the state patrol identification, ~~child abuse, vulnerable adult abuse,~~ and criminal history section on forms supplied by the state patrol for such purpose.

When a person reported missing has been found, the sheriff, chief of police, coroner or medical examiner, or other law enforcement authority shall report such information to the state patrol.

The dental identification system shall maintain a file of information regarding persons reported to it as missing. The file shall contain the information referred to in this section and such other information as the state patrol finds relevant to assist in the location of a missing person.

The files of the dental identification system shall, upon request, be made available to law enforcement agencies attempting to locate missing persons.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Brandland moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6106.

Senators Brandland and Keiser spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Brandland that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6106.

The motion by Senator Brandland carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6106 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6106, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6106, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 1; Excused, 5.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Deccio, Delvin, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudau, Weinstein and Zarelli - 43

Absent: Senator Brown - 1

Excused: Senators Benson, Doumit, Hewitt, McCaslin and Prentice - 5

ENGROSSED SUBSTITUTE SENATE BILL NO. 6106, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Schoesler, Senator Finkbeiner was excused.

PERSONAL PRIVILEGE

Senator Swecker: "Thank you Mr. President. Just before the lunch break there was a hand out distributed to folks' desk. At the top there is a hand written note that says 'Engrossed Second Substitute House Bill No. 1488.' This bill didn't pass out in time. It's probably dead for this year but for about the past week I've been spending a lot of time on the computer doing research on the science on this issue and just in layman's terms to kind of summarize the controversy. Until recently the deca PDBE or in fact it's actually, deca BDE was considered a fairly stable and harmless chemical and it was one that's been used to prevent fire in electronic components like computers, television sets and things like that. There was a bill introduced this year to ban some of the more toxic forms penta, octa and some of the others but the controversy was whether deca should be banned. In my research that I did on the computer, I found numerous articles that show that deca breaks down into the other components which are more toxic and that was significant in and of itself. Also in my exploration I did this discover the article that I distributed to you which now is showing that deca itself is toxic. It's not the components that it breaks down into. The thing that to me that was startling to me is the experiments that were run. Of course they ran them on mice not on human beings, but they showed if this chemical was introduced in the third day after birth, it had toxic effects on the development of the brain. Those toxic effects got worse in those animals over time so the older the animals got, the worse those problems became and so while I realize were not as a body going to address this issue this year. I think that next year I hope we do take a look at it. I think that actually we're going to see new scientific research that will emerge during this next year and I think with this kind of indication I think the research and the data is now starting to support the claim that this substance ought to be banned too. So, I think you for your attention and time, appreciate it."

PERSONAL PRIVILEGE

Senator Carrell: "I would caution people in the Senate when looking at this information to be aware that in out in the world we're measuring parts per trillion, not parts for thousand here and the numbers stated here is looking at high concentrations of this stuff. A thousand times more than you would find out in nature. Yes, all of these things can be concentrated by living things, but take this with a grain of salt. The fact that we can measure down to parts per trillion does not make it dangerous."

REMARKS BY THE PRESIDENT

President Owen: "Senator Carrell, let me just remind members, a point of personal privilege is not to discuss or debate issues but to talk about things that are of personal to you and we're stretching a little beyond that. So, I'm going to try to bring it back in as we're running toward the end of session here."

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

SENATE BILL NO. 6793, by Senators Hargrove, Brown, Brandland, McAuliffe, Thibaudeau, Rockefeller and Rasmussen

Specifying roles and responsibilities with respect to the treatment of persons with mental disorders.

MOTIONS

On motion of Senator Hargrove, Second Substitute Senate Bill No. 6793 was substituted for Senate Bill No. 6793 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Hargrove, the rules were suspended, Second Substitute Senate Bill No. 6793 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove and Brandland spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6793.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6793 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Haugen, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Excused: Senators Benson, Finkbeiner, Hewitt and McCaslin - 4

SECOND SUBSTITUTE SENATE BILL NO. 6793, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

MOTION

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

PERSONAL PRIVILEGE

Senator Oke: "I just have an announcement to make. From the events of yesterday and what took place, officially I will not be running this year. Somebody else will come in and I hope take my job and do as well as I've tried to do. Old soldiers just fade away. General McArthur said that in Congress and that was my intent, just to fade away but he didn't last very long so, when I was down with the Governor one day I said 'I'd be willing to serve on the Fish & Wildlife Commission' and I still

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have things there that I want to accomplish. God bless each one of you. Thank you for being so good to me and I'm going to go home and get healthy. I've never thought about not being healthy. I'm going to home and get healthy and I pray each one of you will have good health and good futures. Thank you."

REMARKS BY THE PRESIDENT

President Owen: "Senator Oke, you and I have served together for a long time, both as Natural Resources chairs and ranking members and I would just hope that the next person that serves in this august chamber will serve with the same grace and dignity that you have. You will be missed."

PERSONAL PRIVILEGE

Senator Eide: "Well, I have to say, Bob, that you have a special place in my heart. You are near and dear to me and it has been an absolute wonderful honor serving with you sir."

PERSONAL PRIVILEGE

Senator Deccio: "Well Bob, you came to the Senate when I was on four year hiatus as a county commissioner. When I first saw the name I thought of Jack Okie, but your name should be pronounced Oke because you are as strong as an oak and we're going to miss you."

PERSONAL PRIVILEGE

Senator Franklin: "Senator Oke, you certainly will be missed. Your, how you carry yourself, how you really relate to people and not only that, your beautiful wife who is there and always smiles. You may not know it but I did serve on the Committee when Mr. President chaired. It was a wonderful committee. I hated to leave but there was conflicts. I know you will do well. You will continue to be in our prayers and I will see you and I'll think about a pheasant each time. Good serving with you."

MOTION

On motion of Senator Eide, Second Substitute Senate Bill No. 6793 was immediately transmitted to the House of Representatives.

MESSAGE FROM THE HOUSE

February 28, 2006

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6391, with the following amendments{s} 6391-S.E AMH HC H5358.1.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 18.20.020 and 2004 c 142 s 1 are each amended to read as follows:

As used in this chapter:

(1) "Boarding home" means any home or other institution, however named, which is advertised, announced, or maintained for the express or implied purpose of providing housing, basic services, and assuming general responsibility for the safety and well-being of the residents, and may also provide domiciliary care, consistent with chapter 142, Laws of 2004, to seven or more residents after July 1, 2000. However, a boarding home

that is licensed for three to six residents prior to or on July 1, 2000, may maintain its boarding home license as long as it is continually licensed as a boarding home. "Boarding home" shall not include facilities certified as group training homes pursuant to RCW 71A.22.040, nor any home, institution or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution or section thereof. Nor shall it include any independent senior housing, independent living units in continuing care retirement communities, or other similar living situations including those subsidized by the department of housing and urban development.

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

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

(4) "Secretary" means the secretary of social and health services.

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

(6) "Resident's representative" means a person designated voluntarily by a competent resident, in writing, to act in the resident's behalf concerning the care and services provided by the boarding home and to receive information from the boarding home, if there is no legal representative. The resident's competence shall be determined using the criteria in RCW 11.88.010(1)(e). The resident's representative may not be affiliated with the licensee, boarding home, or management company, unless the affiliated person is a family member of the resident. The resident's representative shall not have authority to act on behalf of the resident once the resident is no longer competent.

(7) "Domiciliary care" means: Assistance with activities of daily living provided by the boarding home either directly or indirectly; or health support services, if provided directly or indirectly by the boarding home; or intermittent nursing services, if provided directly or indirectly by the boarding home.

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

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

(10) "Nonresident individual" means a person who resides in independent senior housing, independent living units in continuing care retirement communities, or in other similar living environments or in a boarding home and may receive one or more of the services listed in RCW 18.20.030(5)~~(-but)~~. A nonresident individual may not receive domiciliary care, as defined in this chapter, directly or indirectly by the ~~(facility)~~ boarding home and may not receive the items and services listed

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in subsection (8) of this section, except during the time the person is receiving adult day services as defined in this section.

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

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

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

NEW SECTION. Sec. 2. A new section is added to chapter 18.135 RCW to read as follows:

This chapter does not prohibit or restrict the performance of blood-drawing procedures by health care assistants in the residences of research study participants when such procedures have been authorized by the institutional review board of a comprehensive cancer center or nonprofit degree-granting institution of higher education and are conducted under the general supervision of a physician.

Sec. 3. RCW 18.135.040 and 1984 c 281 s 3 are each amended to read as follows:

A certification issued to a health care assistant pursuant to this chapter shall be authority to perform only the functions authorized in RCW 18.135.010 subject to proper delegation and supervision in the health care facility making the certification or under the supervision of the certifying health care practitioner in other health care facilities or in his or her office or in the residences of research study participants in accordance with section 2 of this act. No certification made by one health care facility or health care practitioner is transferrable to another health care facility or health care practitioner.

NEW SECTION. Sec. 4. 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."

On page 1, line 2 of the title, after "settings;" strike the remainder of the title and insert "amending RCW 18.20.020 and 18.135.040; and adding a new section to chapter 18.135 RCW." and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Keiser moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6391. Senator Keiser spoke in favor of the motion.

MOTION

On motion of Senator Regala, Senator Doumit was excused.

MOTION

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6391.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6391 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6391, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6391, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Excused: Senators Benson, Doumit, Hewitt and McCaslin - 4

ENGROSSED SUBSTITUTE SENATE BILL NO. 6391, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Schoesler, Senator Finkbeiner was excused.

MESSAGE FROM THE HOUSE

March 2, 2006

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6308, with the following amendments{s} 6308-S AMH CJC AMH5380.1.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1 The legislature recognizes that "good time" should be productive time, especially for those incarcerated in Washington's criminal justice facilities. The legislature finds that it is important to the safety of the public and to rehabilitation of offenders that changes be considered to other programs offered in prisons and in the community. The legislature further finds that reforms to sentencing and supervision of offenders returning to the community may enhance public safety, lower recidivism, and reduce crime and victimization. Therefore, the legislature intends to create a joint legislative task force on offenders programs, sentencing, and supervision to provide findings and recommendations for the 2007 legislative session.

NEW SECTION. Sec. 2 (1) A joint legislative task force on offenders programs, sentencing, and supervision is established, with members as provided in this subsection.

(a) The president of the senate shall appoint two members from each of the two largest caucuses of the senate, with at least one member being a member of the senate human services and corrections committee;

(b) The speaker of the house of representatives shall appoint two members from each of the two largest caucuses of the house of representatives, with at least one member being a member of the house criminal justice and corrections committee;

(c) The governor shall appoint the following members:

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- (i) The attorney general, or the attorney general's designee;
- (ii) The secretary of corrections, or the secretary's designee;
- (iii) The executive director of the sentencing guidelines commission, or the director's designee;
- (d) In addition, the joint legislative task force, where feasible, may consult with individuals representing the following:
 - (i) Superior court judges;
 - (ii) Mental health treatment providers who provide alcohol and substance abuse counseling;
 - (iii) Mental health treatment providers who provide medical assistance services to offenders;
 - (iv) Counties;
 - (v) Cities;
 - (vi) Crime victims;
 - (vii) Prosecuting attorneys;
 - (viii) Criminal defense lawyers;
 - (ix) Faculty members who educate incarcerated offenders;
 - (x) Faculty members who educate released offenders;
 - (xi) Community corrections officers;
 - (xii) Labor organizations representing correctional officers who work in adult correctional facilities;
 - (xiii) Multifamily housing;
 - (xiv) City local law enforcement;
 - (xv) County law enforcement;
 - (xvi) Ex-offenders;
 - (xvii) A faith-based organization that provides outreach or services to offenders;
 - (xviii) Washington businesses; and
 - (xix) Nonprofit organizations providing work force training to released offenders.
- (2) The joint legislative task force shall be cochaired by a legislative member from the senate and a legislative member from the house of representatives, as chosen by the task force.
- (3) The joint legislative task force shall review and make recommendations regarding:
 - (a) The type of offender that would benefit most in terms of personal achievement, responsibility, and community safety, by having the opportunity to receive enhanced training and education while in prison;
 - (b) The types of training and educational programs that would provide the greatest return on investment with regard to offender achievement, responsibility, and community;
 - (c) Changes to the sentencing law and policies related to "good time" or early release, that would encourage incarcerated offenders to participate in training and programs that will increase the likelihood that they will be able to support themselves when they leave prison and reduce recidivism;
 - (d) A method for evaluating the return on the investment and determining from frontline department of corrections staff and community partners, whether the changes are improving personal responsibility on the part of the offender and reducing crime in the community; and
 - (e) Changes to community supervision that would provide greater safety to the public and incentives for prisons in adhering to treatment, educational goals, and reducing recidivism.
- (4) The joint legislative task force shall present a report of its findings and recommendations to the governor and the appropriate committees of the legislature, including any proposed legislation, by November 15, 2006.
- (5) The joint legislative task force may, where feasible, consult with individuals from the public and private sector in carrying out its duties under this section.
- (6)(a) The joint legislative task force shall use legislative facilities, and staff support shall be provided by senate committee services, the house of representatives office of program research, and the Washington state institute for public policy. The department of corrections and the sentencing guidelines commission shall cooperate with the joint legislative

task force, and shall provide information as the task force reasonably requests.

(b) Nonlegislative members of the joint legislative task force shall serve without compensation, but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(c) Legislative members of the joint legislative task force shall be reimbursed for travel expenses in accordance with RCW 44.04.120.

(d) The expenses of the joint legislative task force shall be paid jointly by the senate and the house of representatives.

(7) This section expires December 1, 2006."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Carrell moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6308.

Senator Carrell spoke in favor of the motion.

MOTION

On motion of Senator Jacobsen, Senator Haugen was excused.

MOTION

The President declared the question before the Senate to be the motion by Senator Carrell that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6308.

The motion by Senator Carrell carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6308 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6308, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6308, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 1; Excused, 6.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Deccio, Delvin, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 42

Absent: Senator Brown - 1

Excused: Senators Benson, Doumit, Finkbeiner, Haugen, Hewitt and McCaslin - 6

SUBSTITUTE SENATE BILL NO. 6308, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

February 28, 2006

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO.

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6439, with the following amendments{s} 6439-S AMH NREP H5339.1.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 77.70.350 and 1994 c 260 s 10 are each amended to read as follows:

(1) The following restrictions apply to vessel designations and substitutions on Dungeness crab-coastal fishery licenses (~~and Dungeness crab-coastal class B fishery licenses~~):

(a) The holder of the license may not:

(i) Designate on the license a vessel the hull length of which exceeds ninety-nine feet (~~nor may the holder~~); or

(ii) Change vessel designation if the hull length of the vessel proposed to be designated exceeds the hull length (~~of the currently designated vessel~~) designated on the license on the effective date of this section by more than ten feet. However, if such vessel designation is the result of an emergency transfer, the applicable vessel length would be the most recent permanent vessel designation on the license prior to the effective date of this section;

(b) If the hull length of the vessel proposed to be designated is comparable to or exceeds by up to one foot the hull length of the currently designated vessel, the department may change the vessel designation no more than once in any two consecutive Washington state coastal crab seasons unless the currently designated vessel is lost or in disrepair such that it does not safely operate, in which case the department may allow a change in vessel designation;

(c) If the hull length of the vessel proposed to be designated exceeds by between one and ten feet the hull length of the (~~currently~~) designated vessel on the effective date of this section, the department may change the vessel designation no more than once (~~in any five consecutive Washington state coastal crab seasons~~) on or after the effective date of this section, unless a request is made by the license holder during a Washington state coastal crab season for an emergency change in vessel designation. If such an emergency request is made, the director may allow a temporary change in designation to another vessel, if the hull length of the other vessel does not exceed by more than ten feet the hull length of the currently designated vessel.

(2) For the purposes of this section, "hull length" means the length overall of a vessel's hull as shown by (~~United States coast guard documentation or~~) marine survey (~~(s)~~) or (~~for vessels that do not require United States coast guard documentation~~) by manufacturer's specifications (~~or marine survey~~).

(3) By December 31, 2010, the department must, in cooperation with the coastal crab fishing industry, evaluate the effectiveness of this section and, if necessary, recommend any statutory changes to the appropriate committees of the senate and house of representatives.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Jacobsen moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6439.

Senators Jacobsen and Oke spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Jacobsen that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6439.

The motion by Senator Jacobsen carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6439 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6439, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6439, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 1; Excused, 5.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Deccio, Delvin, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 43

Absent: Senator Brown - 1

Excused: Senators Benson, Doumit, Finkbeiner, Haugen and McCaslin - 5

SUBSTITUTE SENATE BILL NO. 6439, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of Senator Deccio's family, daughter Carol Wright; granddaughter, Jessica and Kara; his great grandsons, Bryce and Dakota; and their friend Debra Berk, the mother of James Berk, Senator Deccios intern who were present in the gallery.

MESSAGE FROM THE HOUSE

March 2, 2006

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6527, with the following amendments{s} 6527-S AMH TR BERN 008.

On page 1, line 11, after "over" insert "the"

On page 1, line 11, after "corridor" insert "between Ellensburg and Lind."

On page 2, line 13, after "commission" insert "as of the effective date of this act"

On page 2, line 24, after "over" insert "the"

On page 2 line 25, after "corridor" insert "between Ellensburg and Lind."

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Jacobsen moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6527.

Senator Mulliken spoke in favor of the motion.

MOTION

On motion of Senator Regala, Senator Brown was excused.

MOTION

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The President declared the question before the Senate to be the motion by Senator Jacobsen that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6527.

The motion by Senator Jacobsen carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6527 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6527, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6527, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Deccio, Delvin, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spinel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 43

Excused: Senators Benson, Brown, Doumit, Finkbeiner, Haugen and McCaslin - 6

SUBSTITUTE SENATE BILL NO. 6527, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 1, 2006

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6617, with the following amendments{s} 6617-S AMH LG H5396.1.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 89.08 RCW to read as follows:

(1) Conservation districts, before developing a farm plan, shall inform the landowner or operator in writing of the types of information that is subject to disclosure to the public under chapter 42.56 RCW. Before completion of the final draft of a farm plan, the district shall send the final draft farm plan to the requesting landowner or operator for verification of the information. The final farm plan shall not be disclosed by the conservation district until the requesting owner or operator confirms the information in the farm plan and a signed copy of the farm plan is received by the conservation district.

(2) For the purposes of this section and RCW 42.56.270, "farm plan" means a plan prepared by a conservation district in cooperation with a landowner or operator for the purpose of conserving, monitoring, or enhancing renewable natural resources. Farm plans include, but are not limited to, provisions pertaining to:

- (a) Developing and prioritizing conservation objectives;
- (b) Taking an inventory of soil, water, vegetation, livestock, and wildlife;
- (c) Implementing conservation measures, including technical assistance provided by the district;
- (d) Developing and implementing livestock nutrient management measures;
- (e) Developing and implementing plans pursuant to business and financial objectives; and
- (f) Recording, or records of, decisions.

Sec. 2. RCW 42.56.270 and 2005 c 274 s 407 are each amended to read as follows:

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;

(3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;

(5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;

(6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;

(7) Financial and valuable trade information under RCW 51.36.120;

(8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;

(9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;

(10) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a liquor license, gambling license, or lottery retail license;

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011; (~~and~~)

(12)(a) When supplied to and in the records of the department of community, trade, and economic development:

(i) Financial and proprietary information collected from any person and provided to the department of community, trade, and economic development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

(ii) Financial or proprietary information collected from any person and provided to the department of community, trade, and economic development or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;

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(b) When developed by the department of community, trade, and economic development based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of sixty days to the department of community, trade, and economic development from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter; and

(13)(a) Farm plans developed by conservation districts, unless permission to release the farm plan is granted by the landowner or operator who requested the plan, or the farm plan is used for the application or issuance of a permit.

(b) Farm plans developed under chapter 90.48 RCW and not under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to RCW 42.17.31923 (as recodified by House Bill No. 2520) and 90.64.190.

NEW SECTION. Sec. 3. Section 2 of this act takes effect July 1, 2006." and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Schoesler moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6617.

Senator Schoesler spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Schoesler that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6617.

The motion by Senator Schoesler carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6617 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6617, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6617, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Deccio, Delvin, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 43

Excused: Senators Benson, Brown, Doumit, Finkbeiner, Haugen and McCaslin - 6

SUBSTITUTE SENATE BILL NO. 6617, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 1, 2006

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6637, with the following amendments{s} 6637 AMH HC H5357.1.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.128.120 and 2002 c 223 s 1 are each amended to read as follows:

Each adult family home provider and each resident manager shall have the following minimum qualifications, except that only providers are required to meet the provisions of subsection (10) of this section:

(1) Twenty-one years of age or older;

(2) For those applying after September 1, 2001, to be licensed as providers, and for resident managers whose employment begins after September 1, 2001, a United States high school diploma or general educational development (GED) certificate or any English or translated government documentation of the following:

(a) Successful completion of government-approved public or private school education in a foreign country that includes an annual average of one thousand hours of instruction over twelve years or no less than twelve thousand hours of instruction;

(b) A foreign college, foreign university, or United States community college two-year diploma;

(c) Admission to, or completion of coursework at, a foreign university or college for which credit was granted;

(d) Admission to, or completion of coursework at, a United States college or university for which credits were awarded;

(e) Admission to, or completion of postgraduate coursework at, a United States college or university for which credits were awarded; or

(f) Successful passage of the United States board examination for registered nursing, or any professional medical occupation for which college or university education preparation was required;

(3) Good moral and responsible character and reputation;

(4) Literacy in the English language, however, a person not literate in the English language may meet the requirements of this subsection by assuring that there is a person on staff and available who is able to communicate or make provisions for communicating with the resident in his or her primary language and capable of understanding and speaking English well enough to be able to respond appropriately to emergency situations and be able to read and understand resident care plans;

(5) Management and administrative ability to carry out the requirements of this chapter;

(6) Satisfactory completion of department-approved basic training and continuing education training as specified by the department in rule, based on recommendations of the community long-term care training and education steering committee and working in collaboration with providers, consumers, caregivers, advocates, family members, educators, and other interested parties in the rule-making process;

(7) Satisfactory completion of department-approved, or equivalent, special care training before a provider may provide special care services to a resident;

(8) Not been convicted of any crime listed in RCW 43.43.830 and 43.43.842; ~~((and))~~

(9) For those applying after September 1, 2001, to be licensed as providers, and for resident managers whose employment begins after September 1, 2001, at least three hundred twenty hours of successful, direct caregiving experience obtained after age eighteen to vulnerable adults in a licensed or contracted setting prior to operating or managing an adult family home; and

(10) Prior to being granted a license, providers applying after January 1, 2007, must complete a department-approved forty-eight hour adult family home administration and business planning class. The department shall promote and prioritize bilingual capabilities within available resources and when materials are available for this purpose."

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On page 1, line 1 of the title, after "providers;" strike the remainder of the title and insert "and amending RCW 70.128.120." and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Keiser moved that the Senate concur in the House amendment(s) to Senate Bill No. 6637.

Senator Keiser spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate concur in the House amendment(s) to Senate Bill No. 6637.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6637 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6637, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6637, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Deccio, Delvin, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 43

Excused: Senators Benson, Brown, Doumit, Finkbeiner, Haugen and McCaslin - 6

SENATE BILL NO. 6637, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 1, 2006

MR. PRESIDENT:

The House has passed ENGROSSED SENATE BILL NO. 6661, with the following amendments{s} 6661.E AMH EDAT H5375.1.

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** The legislature declares that:

(1) Marketing is a dynamic and changing part of Washington agriculture and a vital element in expanding the state economy;

(2) The sale in this state and export to other states and abroad of beer made in this state contribute substantial benefits to the economy of the state and provide a large number of jobs and sizeable tax revenues;

(3) The production of beer in this state is a new and important segment of Washington agriculture that has potential for greater contribution to the economy of the state if it undergoes continued development; and

(4) The general welfare of the people of this state will be served by continued development of the activities of the production of beer, that will improve the tax bases of local communities where agricultural land and processing facilities are located, and reduce the need for state and federal funding of local services. The industries are therefore affected with the public interest.

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

(1) "Affected producer" means any producer who is subject to this chapter.

(2) "Beer" means any malt beverage or malt liquor as the terms are defined in chapter 66.04 RCW.

(3) "Commission" means the Washington beer commission.

(4) "Department" means the department of agriculture.

(5) "Director" means the director of the department or the director's duly authorized representative.

(6) "Fiscal year" means the twelve-month period beginning with January 1st of any year and ending December 31st.

(7) "Producer" means any person or other entity licensed under Title 66 RCW to produce beer within Washington state and who produces less than one hundred thousand barrels of beer annually per location.

(8) "Referendum" means a vote by affected producers that is conducted by secret ballot.

NEW SECTION. Sec. 3. The history, economy, culture, and future of Washington state's agriculture involve the beer industry. In order to develop and promote beer as part of an existing comprehensive scheme to regulate those products, the legislature declares that:

(1) It is vital to the continued economic well-being of the citizens of this state and their general welfare that beer produced in Washington state be properly promoted;

(2) It is in the overriding public interest that support for the Washington beer industry be clearly expressed and that beer be promoted individually, and as part of a comprehensive industry to:

(a) Enhance the reputation and image of Washington state's agriculture industry;

(b) Protect the public by educating the public in reference to the quality, care, and methods used in the production of beer;

(c) Increase the knowledge of the qualities and value of Washington's beer; and

(d) Support and engage in programs or activities that benefit the production, handling, processing, marketing, and uses of beer;

(3) This chapter is enacted in the exercise of the police powers of this state to protect the health, peace, safety, and general welfare of the people of this state; and

(4) The production and marketing of beer is a highly regulated industry and this chapter and the rules adopted under it are only one aspect of the regulated industry. Other laws applicable to the beer industry include:

(a) The organic food products act, chapter 15.86 RCW;

(b) The wholesale distributors and suppliers of malt beverages, chapter 19.126 RCW;

(c) Weights and measures, chapter 19.94 RCW;

(d) Title 66 RCW, alcoholic beverage control;

(e) Title 69 RCW, food, drugs, cosmetics, and poisons;

(f) 21 C.F.R. as it relates to general manufacturing practices, food labeling, food standards, food additives, and pesticide tolerances;

(g) Chapter 69.07 RCW, Washington food processing act;

(h) 27 U.S.C. Secs. 201 through 211, 213 through 219a, and 122A;

(i) 27 C.F.R. Parts 1, 6, 9, 10, 12, 16, 240, 251, and 252; and

(j) Rules under Title 314 WAC.

NEW SECTION. Sec. 4. (1) Subject to the referendum conducted under section 5 of this act, there is created an

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agricultural commodity commission, to be known as the Washington beer commission. The commission shall be comprised of seven voting members; six members shall be producers and one voting member shall be the director.

(2) Five voting members of the commission constitute a quorum for the transaction of any commission business.

(3) Each producer member shall be a citizen and resident of this state and over the age of twenty-one. Each producer member must be engaged in producing beer, and must, during his or her term of office, derive a substantial portion of income from the production of beer, or have a substantial investment in the production of beer as an owner, lessee, partner, or the manager or executive officer of such a corporation. No more than one board member may be part of the same person as defined by RCW 15.04.010. These qualifications apply throughout each member's term of office but do not apply to the director.

(4) The producer members shall serve three-year terms. Of the initial voting members, two members shall be appointed for a one-year term, two members shall be appointed for a two-year term, and two members shall be appointed for a three-year term.

NEW SECTION. Sec. 5. (1) Upon receipt of a petition containing the signatures of five beer producers from a statewide Washington state craft brewing trade association or other affected producers to implement this chapter and to determine producer participation in the commission and assessment under this chapter, the director shall:

(a) Conduct a referendum of beer producers. The requirements of assent or approval of the referendum are met if:

(i) At least fifty-one percent by numbers of affected producers participating in the referendum vote affirmatively; and

(ii) Thirty percent of the affected producers and thirty percent of the production have been represented in the referendum to determine assent or approval of participation and assessment. The referendum shall be conducted within sixty days of receipt of the petition; and

(b) Establish a list of beer producers from information provided by the petitioners, by obtaining information on beer producers from applicable producer organizations or associations or other sources identified as maintaining the information. In establishing a current list of beer producers and their individual production, the director shall use the beer producer's name, mailing address, and production by the producer in the preceding fiscal year. Information on each producer shall be mailed to each beer producer on record with the director for verification. All corrections shall be filed with the director within twenty days from the date of mailing. The list of affected producers shall be kept in a file by the director. The list shall be certified as a true representation of the referendum mailing list. Inadvertent failure to notify an affected producer does not invalidate a proceeding conducted under this chapter. The director shall provide the commission the list of affected producers after assent in a referendum as provided in this section.

(2) If the director determines that the requisite assent has been given in the referendum conducted under subsection (1) of this section, the director shall:

(a) Within sixty days after assent of the referendum held, appoint the members of the commission; and

(b) Direct the commission to put into force the assessment as provided for in section 14 of this act.

(3) If the director determines that the requisite assent has not been given in the referendum conducted under subsection (1) of this section, the director shall take no further action to implement or enforce this chapter.

(4) Upon completion of the referendum conducted under subsection (1) of this section, the department shall tally the results of the vote and provide the results to affected producers. If an affected producer disputes the results of a vote, that producer within sixty days from the announced results, shall

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provide in writing a statement of why the vote is disputed and request a recount. Once the vote is tallied and distributed, all disputes are resolved, and all matters in a vote are finalized, the individual ballots may be destroyed.

(5) Before conducting the referendum provided for in subsection (1) of this section, the director may require the petitioners to deposit with him or her an amount of money as the director deems necessary to defray the expenses of conducting the referendum. The director shall provide the petitioners an estimate of expenses that may be incurred to conduct a referendum before any service takes place. Petitioners shall deposit funds with the director to pay for expenses incurred by the department. The commission shall reimburse petitioners the amount paid to the department when funds become available. However, if for any reason the referendum process is discontinued, the petitioners shall reimburse the department for expenses incurred by the department up until the time the process is discontinued.

(6) The director is not required to hold a referendum under subsection (1) of this section more than once in any twelve-month period.

NEW SECTION. Sec. 6. (1) The director shall appoint the producer members of the commission. In making appointments, no later than ninety days before an expiration of a commission member's term, the director shall call for recommendations for commission member positions, and the director shall take into consideration recommendations made by a statewide Washington state craft brewing trade association or other affected producers. In appointing persons to the commission, the director shall seek a balanced representation on the commission that reflects the composition of the beer producers throughout the state on the basis of beer produced and geographic location. Information on beer production by geographic location shall be provided by the commission upon the director's request.

(2) If a position on the commission becomes vacant due to resignation, disqualification, death, or for any other reason, the commission shall notify the director and the unexpired term shall immediately be filled by appointment by the director.

(3) Each member or employee of the commission shall be reimbursed for actual travel expenses incurred in carrying out this chapter as defined by the commission in rule. Otherwise if not defined in rule, reimbursement for travel expenses shall be at the rates allowed by RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 7. Obligations incurred by the commission and any other liabilities or claims against the commission shall be enforced only against the assets of the commission and, except to the extent of such assets, no liability for the debts or actions of the commission exists against either the state of Washington or any subdivision or instrumentality thereof or against any member, employee, or agent of the commission or the state of Washington in his or her individual capacity. Except as otherwise provided in this chapter, neither the commission members, nor its employees, may be held individually responsible for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person, or employee, except for their own individual acts of dishonesty or crime. No person or employee may be held individually responsible for any act or omission of any other commission members. The liability of the commission members shall be several and not joint, and no member is liable for the default of any other member. This provision confirms that commission members have been and continue to be, state officers or volunteers for purposes of RCW 4.92.075 and are entitled to the defenses, indemnifications, limitations of liability, and other protections and benefits of chapter 4.92 RCW.

NEW SECTION. Sec. 8. The commission shall:

(1) Elect a chair and officers. The officers must include a treasurer who is responsible for all receipts and disbursements by the commission and the faithful discharge of whose duties

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shall be guaranteed by a bond at the sole expense of the commission. The commission must adopt rules for its own governance that provide for the holding of an annual meeting for the election of officers and the transaction of other business and for other meetings the commission may direct;

(2) Do all things reasonably necessary to effect the purposes of this chapter. However, the commission has no rule-making power except as provided in this chapter;

(3) Employ and discharge managers, secretaries, agents, attorneys, and employees and engage the services of independent contractors;

(4) Retain, as necessary, the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of the attorney general;

(5) Receive donations of beer from producers for promotional purposes under subsections (6) and (7) of this section and for fund-raising purposes under subsection (8) of this section. Donations of beer for promotional purposes may only be disseminated without charge;

(6) Engage directly or indirectly in the promotion of Washington beer, including, without limitation, the acquisition in any lawful manner and the dissemination without charge of beer. This dissemination is not deemed a sale for any purpose and the commission is not deemed a producer, supplier, or manufacturer, or the clerk, servant, or agent of a producer, supplier, distributor, or manufacturer. This dissemination without charge shall be for agricultural development or trade promotion, and not for fund-raising purposes under subsection (8) of this section. Dissemination for promotional purposes may include promotional hosting and must in the good faith judgment of the commission be in the aid of the marketing, advertising, sale of beer, or of research related to such marketing, advertising, or sale;

(7) Promote Washington beer by conducting unique beer tastings without charge;

(8) Beginning July 1, 2007, fund the Washington beer commission through sponsorship of up to twelve beer festivals annually at which beer may be sold to festival participants. For this purpose, the commission would qualify for issue of a special occasion license as an exception to WAC 314-05-020 but must comply with laws under Title 66 RCW and rules adopted by the liquor control board under which such events may be conducted;

(9) Participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, regulation, distribution, sale, or use of beer including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission;

(10) Acquire and transfer personal and real property, establish offices, incur expenses, and enter into contracts, including contracts for the creation and printing of promotional literature. The contracts are not subject to chapter 43.78 RCW, and are cancelable by the commission unless performed under conditions of employment that substantially conform to the laws of this state and the rules of the department of labor and industries. The commission may create debt and other liabilities that are reasonable for proper discharge of its duties under this chapter;

(11) Maintain accounts with one or more qualified public depositories as the commission may direct, for the deposit of money, and expend money for purposes authorized by this chapter by drafts made by the commission upon such institutions or by other means;

(12) Cause to be kept and annually closed, in accordance with generally accepted accounting principles, accurate records of all receipts, disbursements, and other financial transactions, available for audit by the state auditor;

(13) Create and maintain a list of producers and disseminate information among and solicit the opinions of producers with

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respect to the discharge of the duties of the commission, directly or by arrangement with trade associations or other instrumentalities;

(14) Employ, designate as an agent, act in concert with, and enter into contracts with any person, council, commission, or other entity to promote the general welfare of the beer industry and particularly to assist in the sale and distribution of Washington beer in domestic and foreign commerce. The commission shall expend money necessary or advisable for this purpose and to pay its proportionate share of the cost of any program providing direct or indirect assistance to the sale and distribution of Washington beer in domestic or foreign commerce, employing and paying for vendors of professional services of all kinds;

(15) Sue and be sued as a commission, without individual liability for acts of the commission within the scope of the powers conferred upon it by this chapter; and

(16) Serve as liaison with the liquor control board on behalf of the commission and not for any individual producer.

NEW SECTION. Sec. 9. (1) The commission shall develop and submit to the director for approval any plans, programs, and projects concerning the following:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for advertising, promotion, and education programs related to beer; and

(b) The establishment and effectuation of market research projects, market development projects, or both to the end that the marketing of beer may be encouraged, expanded, improved, or made more efficient.

(2) The director shall review the commission's advertising or promotion program to ensure that no false claims are being made concerning beer.

(3) The commission, before the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget on a fiscal period basis.

(4) The director shall strive to review and make a determination of all submissions described in this section in a timely manner.

NEW SECTION. Sec. 10. The commission exists primarily for the benefit of the people of the state of Washington and its economy. The legislature hereby charges the commission, with oversight by the director, to speak on behalf of the Washington state government with regard to the marketing and promotion of Washington produced beer.

NEW SECTION. Sec. 11. The commission may create, provide for, and conduct a comprehensive and extensive research, promotional, and educational campaign as sales and market conditions reasonably require. It shall investigate and ascertain the needs of producers, conditions of markets, and degree of public awareness of products, and take into account this information in the discharge of its duties under this chapter.

NEW SECTION. Sec. 12. The commission shall adopt as major objectives of its research, promotional, and educational campaign goals that serve the needs of producers. The goals may include efforts to:

(1) Establish Washington beer as a major factor in markets everywhere;

(2) Promote Washington breweries as tourist attractions;

(3) Encourage favorable reporting of Washington beer and breweries in the press throughout the world;

(4) Establish Washington beer in markets everywhere as a major source of premium beer;

(5) Encourage favorable legislative and regulatory treatment of Washington beer in markets everywhere;

(6) Encourage promotion of Washington agriculture related to beer production, specifically hops, malting barley, and wheat grown in the state; and

(7) Foster economic conditions favorable to investment in the production of Washington beer.

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NEW SECTION. Sec. 13. (1) The commission shall prepare a list of all affected producers from information available from the liquor control board, the department, or the producers' association. This list must contain the names and addresses of affected producers within this state and the amount, by barrelage, of beer produced during the period designated by the commission. A qualified person may, at any time, have his or her name placed upon the list by delivering or mailing the information to the commission. This list shall be corrected and brought up-to-date in accordance with evidence and information available to the commission by December 31st of each year. For the purposes of giving notice and holding referendums, the list updated before the date for issuing notices or ballots is the list of all producers entitled to notice, to assent or dissent, or to vote. Inadvertent failure to notify a producer does not invalidate a proceeding conducted under this chapter.

(2) It is the responsibility of affected producers to ensure that their correct address is filed with the commission. It is also the responsibility of affected producers to submit production data to the commission as prescribed by this chapter.

(3) The commission shall develop a reporting system to document that the affected producers in this state are reporting quantities of beer produced and are paying the assessment as provided in section 14 of this act.

NEW SECTION. Sec. 14. (1) Pursuant to referendum in accordance with section 5 of this act, there is levied, and the commission shall collect, upon beer produced by an affected producer, an annual assessment of ten cents per barrel of beer produced, up to ten thousand barrels per location.

(2) The commission shall adopt rules prescribing the time, place, and method for payment and collection of this assessment and provide for the collection of assessments from affected producers who ship directly out-of-state.

(3) The commission may reduce the assessment per affected producer based upon in-kind contributions to the commission.

NEW SECTION. Sec. 15. The commission shall deposit money collected under section 14 of this act in a separate account in the name of the commission in any bank that is a state depository. All expenditures and disbursements made from this account under this chapter may be made without the necessity of a specific legislative appropriation. RCW 43.01.050 does not apply to this account or to the money received, collected, or expended as provided in this chapter.

NEW SECTION. Sec. 16. An assessment levied in an amount determined by the commission under section 14 of this act constitutes a personal debt of every person assessed or who otherwise owes the assessment, and the assessment is due and payable to the commission when payment is called for by the commission. If a producer fails to pay the commission the full amount of the assessment by the date due, the commission may add to the unpaid assessment an amount not exceeding ten percent of the assessment to defray the cost of enforcing its collection. If the person fails to pay an assessment, the commission may bring a civil action for collection against the person or persons in a court of competent jurisdiction. The action shall be tried and judgment rendered as in any other cause of action for a debt due and payable.

NEW SECTION. Sec. 17. (1) Under RCW 42.56.380, certain agricultural business records, commission records, and department of agriculture records relating to the commission and producers of agricultural commodities are exempt from public disclosure.

(2) Financial and commercial information and records submitted to either the department or the commission for the purpose of administering this chapter may be shared between the department and the commission. They may also be used, if required, in any suit or administrative hearing involving this chapter.

(3) This section does not prohibit:

(a) The issuance of general statements based upon the reports of persons subject to this chapter as long as the

statements do not identify the information furnished by any person; or

(b) The publication by the director or the commission of the name of any person violating this chapter and a statement of the manner of the violation by that person.

NEW SECTION. Sec. 18. (1) All costs incurred by the department, including the adoption of rules and other actions necessary to carry out this chapter, shall be reimbursed by the commission.

(2) The director may provide by rule for a method to fund staff support for all commodity boards or commissions in accordance with RCW 43.23.033 if a position is not directly funded by the legislature and costs are related to the specific activity undertaken on behalf of an individual commodity board or commission. The commission shall provide funds to the department according to the rules adopted by the director.

NEW SECTION. Sec. 19. County and state law enforcement officers, the liquor control board and its enforcement agents, and employees of the department shall enforce this chapter.

NEW SECTION. Sec. 20. (1) Any prosecution brought under this chapter may be instituted in any county in which the defendant or any defendant resides, or in which the violation was committed, or in which the defendant or any defendant has his or her principal place of business.

(2) The superior courts may enforce this chapter and the rules and regulations of the commission issued hereunder, and may prevent and restrain violations thereof.

NEW SECTION. Sec. 21. This act shall be liberally construed to effectuate its purposes.

Sec. 22. RCW 66.44.800 and 1987 c 452 s 17 are each amended to read as follows:

(1) Nothing contained in chapter 15.88 RCW shall affect the compliance by the Washington wine commission with this chapter.

(2) Nothing contained in chapter 15.-- RCW (sections 1 through 21 of this act) shall affect the compliance by the Washington beer commission with this chapter.

NEW SECTION. Sec. 23. A new section is added to chapter 66.12 RCW to read as follows:

The Washington beer commission created under section 4 of this act may purchase or receive donations of beer or malt beverages from any brewery, in any state, or in any country and may use such beer or malt beverages for any promotional purposes as outlined in section 8 of this act. Beer and malt beverages that are furnished to the commission under this section that are used within the state are subject to the taxes imposed under RCW 66.24.290. No license, permit, or bond is required of the Washington beer commission under this title for promotional activities conducted under chapter 15.-- RCW (sections 1 through 21 of this act).

Sec. 24. RCW 15.04.200 and 1987 c 452 s 16 are each amended to read as follows:

(1) Under the authority of Article VIII of the state Constitution as amended, agricultural commodity commission expenditures for agricultural development or trade promotion and promotional hosting by an agricultural commodities commission under chapters 15.24, 15.28, 15.44, 15.65, 15.66, 15.88, 15.-- (sections 1 through 21 of this act), and 16.67 RCW shall be pursuant to specific budget items as approved by the agricultural commodity commission at the annual public hearings on the agricultural commodity commission budget.

(2) Agricultural commodity commissions shall adopt rules governing promotional hosting expenditures by agricultural commodity commission employees, agents or commissioners. The rules shall identify officials and agents authorized to make expenditures and the objectives of the expenditures. Individual agricultural commodity commission commissioners shall make promotional hosting expenditures, or seek reimbursements for these expenditures, only in those instances where the expenditures have been approved by the agricultural commodity

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commission. All payments and reimbursements shall be identified and supported on vouchers.

(3) Agricultural commodity commissions shall be exempt from the requirements of RCW 43.01.090 and 43.19.500 and chapter 43.82 RCW.

Sec. 25. RCW 42.17.31907 and 2002 c 313 s 66 are each amended to read as follows:

The following agricultural business records and commodity board and commission records are exempt from the disclosure requirements of this chapter:

(1) Production or sales records required to determine assessment levels and actual assessment payments to commodity boards and commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, 15.-- (sections 1 through 21 of this act), and 16.67 RCW or required by the department of agriculture to administer these chapters or the department's programs;

(2) Consignment information contained on phytosanitary certificates issued by the department of agriculture under chapters 15.13, 15.49, and 15.17 RCW or federal phytosanitary certificates issued under 7 C.F.R. 353 through cooperative agreements with the animal and plant health inspection service, United States department of agriculture, or on applications for phytosanitary certification required by the department of agriculture; and

(3) Financial and commercial information and records supplied by persons (a) to the department of agriculture for the purpose of conducting a referendum for the potential establishment of a commodity board or commission; (b) to the department of agriculture or commodity boards or commissions formed under chapter 15.24, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, 15.-- (sections 1 through 21 of this act), or 16.67 RCW with respect to domestic or export marketing activities or individual producer's production information.

Sec. 26. RCW 42.56.380 and 2005 c 274 s 418 are each amended to read as follows:

The following information relating to agriculture and livestock is exempt from disclosure under this chapter:

(1) Business-related information under RCW 15.86.110;

(2) Information provided under RCW 15.54.362;

(3) Production or sales records required to determine assessment levels and actual assessment payments to commodity boards and commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, 15.-- (sections 1 through 21 of this act), and 16.67 RCW or required by the department of agriculture to administer these chapters or the department's programs;

(4) Consignment information contained on phytosanitary certificates issued by the department of agriculture under chapters 15.13, 15.49, and 15.17 RCW or federal phytosanitary certificates issued under 7 C.F.R. 353 through cooperative agreements with the animal and plant health inspection service, United States department of agriculture, or on applications for phytosanitary certification required by the department of agriculture;

(5) Financial and commercial information and records supplied by persons (a) to the department of agriculture for the purpose of conducting a referendum for the potential establishment of a commodity board or commission; or (b) to the department of agriculture or commodity boards or commissions formed under chapter 15.24, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, 15.-- (sections 1 through 21 of this act), or 16.67 RCW with respect to domestic or export marketing activities or individual producer's production information;

(6) Except under RCW 15.19.080, information obtained regarding the purchases, sales, or production of an individual American ginseng grower or dealer;

(7) Information that can be identified to a particular business and that is collected under section 3(1), chapter 235, Laws of 2002; and

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(8) Financial statements provided under RCW 16.65.030(1)(d).

Sec. 27. RCW 43.23.033 and 2002 c 313 s 78 are each amended to read as follows:

(1) The director may provide by rule for a method to fund staff support for all commodity boards and commissions if a position is not directly funded by the legislature.

(2) Staff support funded under this section and RCW 15.65.047(1)(c), 15.66.055(3), 15.24.215, 15.26.265, 15.28.320, 15.44.190, 15.88.180, section 18 of this act, and 16.67.190 shall be limited to one-half full-time equivalent employee for all commodity boards and commissions.

Sec. 28. RCW 66.28.010 and 2004 c 160 s 9 and 2004 c 62 s 1 are each reenacted and amended to read as follows:

(1)(a) No manufacturer, importer, distributor, or authorized representative, or person financially interested, directly or indirectly, in such business; whether resident or nonresident, shall have any financial interest, direct or indirect, in any licensed retail business, unless the retail business is owned by a corporation in which a manufacturer or importer has no direct stock ownership and there are no interlocking officers and directors, the retail license is held by a corporation that is not owned directly or indirectly by a manufacturer or importer, the sales of liquor are incidental to the primary activity of operating the property as a hotel, alcoholic beverages produced by the manufacturer or importer or their subsidiaries are not sold at the licensed premises, and the board reviews the ownership and proposed method of operation of all involved entities and determines that there will not be an unacceptable level of control or undue influence over the operation or the retail licensee; nor shall any manufacturer, importer, distributor, or authorized representative own any of the property upon which such licensed persons conduct their business; nor shall any such licensed person, under any arrangement whatsoever, conduct his or her business upon property in which any manufacturer, importer, distributor, or authorized representative has any interest unless title to that property is owned by a corporation in which a manufacturer has no direct stock ownership and there are no interlocking officers or directors, the retail license is held by a corporation that is not owned directly or indirectly by the manufacturer, the sales of liquor are incidental to the primary activity of operating the property either as a hotel or as an amphitheater offering live musical and similar live entertainment activities to the public, alcoholic beverages produced by the manufacturer or any of its subsidiaries are not sold at the licensed premises, and the board reviews the ownership and proposed method of operation of all involved entities and determines that there will not be an unacceptable level of control or undue influence over the operation of the retail licensee. Except as provided in subsection (3) of this section, no manufacturer, importer, distributor, or authorized representative shall advance moneys or moneys' worth to a licensed person under an arrangement, nor shall such licensed person receive, under an arrangement, an advance of moneys or moneys' worth. "Person" as used in this section only shall not include those state or federally chartered banks, state or federally chartered savings and loan associations, state or federally chartered mutual savings banks, or institutional investors which are not controlled directly or indirectly by a manufacturer, importer, distributor, or authorized representative as long as the bank, savings and loan association, or institutional investor does not influence or attempt to influence the purchasing practices of the retailer with respect to alcoholic beverages. Except as otherwise provided in this section, no manufacturer, importer, distributor, or authorized representative shall be eligible to receive or hold a retail license under this title, nor shall such manufacturer, importer, distributor, or authorized representative sell at retail any liquor as herein defined. A corporation granted an exemption under this subsection may use debt instruments issued in connection with financing construction or operations of its facilities.

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(b) Nothing in this section shall prohibit a licensed domestic brewery or microbrewery from being licensed as a retailer pursuant to chapter 66.24 RCW for the purpose of selling beer or wine at retail on the brewery premises and nothing in this section shall prohibit a domestic winery from being licensed as a retailer pursuant to chapter 66.24 RCW for the purpose of selling beer or wine at retail on the winery premises. Such beer and wine so sold at retail shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210 and to reporting and bonding requirements as prescribed by regulations adopted by the board pursuant to chapter 34.05 RCW, and beer and wine that is not produced by the brewery or winery shall be purchased from a licensed beer or wine distributor.

(c) Nothing in this section shall prohibit a licensed distiller, domestic brewery, microbrewery, domestic winery, or a lessee of a licensed domestic brewer, microbrewery, or domestic winery, from being licensed as a spirits, beer, and wine restaurant pursuant to chapter 66.24 RCW for the purpose of selling liquor at a spirits, beer, and wine restaurant premises on the property on which the primary manufacturing facility of the licensed distiller, domestic brewer, microbrewery, or domestic winery is located or on contiguous property owned or leased by the licensed distiller, domestic brewer, microbrewery, or domestic winery as prescribed by rules adopted by the board pursuant to chapter 34.05 RCW.

(d) Nothing in this section prohibits retail licensees with a caterer's endorsement issued under RCW 66.24.320 or 66.24.420 from operating on a domestic winery premises.

(e) Until July 1, 2007, nothing in this section prohibits a nonprofit statewide organization of microbreweries formed for the purpose of promoting Washington's craft beer industry as a trade association registered as a 501(c) with the internal revenue service from holding a special occasion license to conduct up to six beer festivals.

(2) Financial interest, direct or indirect, as used in this section, shall include any interest, whether by stock ownership, mortgage, lien, or through interlocking directors, or otherwise. Pursuant to rules promulgated by the board in accordance with chapter 34.05 RCW manufacturers, distributors, and importers may perform, and retailers may accept the service of building, rotating and restocking case displays and stock room inventories; rotating and rearranging can and bottle displays of their own products; provide point of sale material and brand signs; price case goods of their own brands; and perform such similar normal business services as the board may by regulation prescribe.

(3)(a) This section does not prohibit a manufacturer, importer, or distributor from providing services to a special occasion licensee for: (i) Installation of draft beer dispensing equipment or advertising, (ii) advertising, pouring, or dispensing of beer or wine at a beer or wine tasting exhibition or judging event, or (iii) a special occasion licensee from receiving any such services as may be provided by a manufacturer, importer, or distributor. Nothing in this section shall prohibit a retail licensee, or any person financially interested, directly or indirectly, in such a retail licensee from having a financial interest, direct or indirect, in a business which provides, for a compensation commensurate in value to the services provided, bottling, canning or other services to a manufacturer, so long as the retail licensee or person interested therein has no direct financial interest in or control of said manufacturer.

(b) A person holding contractual rights to payment from selling a liquor distributor's business and transferring the license shall not be deemed to have a financial interest under this section if the person (i) lacks any ownership in or control of the distributor, (ii) is not employed by the distributor, and (iii) does not influence or attempt to influence liquor purchases by retail liquor licensees from the distributor.

(c) The board shall adopt such rules as are deemed necessary to carry out the purposes and provisions of subsection

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(3)(a) of this section in accordance with the administrative procedure act, chapter 34.05 RCW.

(4) A license issued under RCW 66.24.395 does not constitute a retail license for the purposes of this section.

(5) A public house license issued under RCW 66.24.580 does not violate the provisions of this section as to a retailer having an interest directly or indirectly in a liquor-licensed manufacturer.

NEW SECTION. Sec. 29. 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. 30. Sections 1 through 21 of this act constitute a new chapter in Title 15 RCW.

NEW SECTION. Sec. 31. Section 25 of this act expires July 1, 2006.

NEW SECTION. Sec. 32. Section 26 of this act takes effect July 1, 2006."

Correct the title.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Rasmussen moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 6661.

Senator Rasmussen spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Rasmussen that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 6661.

The motion by Senator Rasmussen carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 6661 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6661, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6661, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 40; Nays, 0; Absent, 3; Excused, 6.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Deccio, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kohl-Welles, McAuliffe, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 40

Absent: Senators Esser, Kline and Oke - 3

Excused: Senators Benson, Brown, Doumit, Finkbeiner, Haugen and McCaslin - 6

ENGROSSED SENATE BILL NO. 6661, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Hewitt, Senator Esser was excused.

MOTION

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On motion of Senator Brandland, Senator Parlette was excused.

MOTION

On motion of Senator Regala, Senator Fairley was excused.

MESSAGE FROM THE HOUSE

March 1, 2006

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6840, with the following amendments{s} 6840-S AMH TEC H5378.1.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 19.260.020 and 2005 c 298 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) "Automatic commercial ice cube machine" means a factory-made assembly, not necessarily shipped in one package, consisting of a condensing unit and ice-making section operating as an integrated unit with means for making and harvesting ice cubes. It may also include integrated components for storing or dispensing ice, or both.

(2) "Ballast" means a device used with an electric discharge lamp to obtain necessary circuit conditions, such as voltage, current, and waveform, for starting and operating the lamp.

(3) "Commercial clothes washer" means a soft mount horizontal or vertical-axis clothes washer that: (a) Has a clothes container compartment no greater than 3.5 cubic feet in the case of a horizontal-axis product or no greater than 4.0 cubic feet in the case of a vertical-axis product; and (b) is designed for use by more than one household, such as in multifamily housing, apartments, or coin laundries.

(4) "Commercial prerinse spray valve" means a handheld device designed and marketed for use with commercial dishwashing and warewashing equipment and that sprays water on dishes, flatware, and other food service items for the purpose of removing food residue prior to their cleaning.

(5)(a) "Commercial refrigerators and freezers" means refrigerators, freezers, or refrigerator-freezers designed for use by commercial or institutional facilities for the purpose of storing or merchandising food products, beverages, or ice at specified temperatures that: (i) Incorporate most components involved in the vapor-compression cycle and the refrigerated compartment in a single cabinet; and (ii) may be configured with either solid or transparent doors as a reach-in cabinet, pass-through cabinet, roll-in cabinet, or roll-through cabinet.

(b) "Commercial refrigerators and freezers" does not include: (i) Products with 85 cubic feet or more of internal volume; (ii) walk-in refrigerators or freezers; (iii) consumer products that are federally regulated pursuant to 42 U.S.C. Sec. 6291 et seq.; (iv) products without doors; or (v) freezers specifically designed for ice cream.

(6) "Compensation" means money or any other valuable thing, regardless of form, received or to be received by a person for services rendered.

(7) "Department" means the department of community, trade, and economic development.

(8) "High-intensity discharge lamp" means a lamp in which light is produced by the passage of an electric current through a vapor or gas, and in which the light-producing arc is stabilized by bulb wall temperature and the arc tube has a bulb wall loading in excess of three watts per square centimeter.

(9) ("~~High-intensity discharge lamp~~" means an internally illuminated sign that is designed to be permanently fixed in place to identify

a building exit and consists of an electrically powered integral light source that illuminates the legend "EXIT" and any directional indicators and provides contrast between the legend, any directional indicators, and the background:

~~(10)(a) "Low-voltage dry-type distribution transformer" means a distribution transformer that: (i) Has an input voltage of 600 volts or less; (ii) is air cooled; (iii) does not use oil as a coolant; and (iv) is rated for operation at a frequency of 60 hertz:~~

~~(b) "Low-voltage dry-type transformer" does not include: (i) Transformers with multiple voltage taps, with the highest voltage tap equaling at least twenty percent more than the lowest voltage tap; or (ii) transformers, such as those commonly known as drive transformers, rectifier transformers, auto transformers, uninterruptible power system transformers, impedance transformers, regulating transformers, sealed and nonventilating transformers, machine tool transformers, welding transformers, grounding transformers, or testing transformers, that are designed to be used in a special purpose application and are unlikely to be used in general purpose applications:~~

~~((11)) "Metal halide lamp" means a high-intensity discharge lamp in which the major portion of the light is produced by radiation of metal halides and their products of dissociation, possibly in combination with metallic vapors.~~

~~((12)) (10) "Metal halide lamp fixture" means a light fixture designed to be operated with a metal halide lamp and a ballast for a metal halide lamp.~~

~~((13)) (11) "Pass-through cabinet" means a commercial refrigerator or freezer with hinged or sliding doors on both the front and rear of the unit.~~

~~((14)) (12) "Probe-start metal halide ballast" means a ballast used to operate metal halide lamps which does not contain an igniter and which instead starts lamps by using a third starting electrode "probe" in the arc tube.~~

~~((15)) (13) "Reach-in cabinet" means a commercial refrigerator or freezer with hinged or sliding doors or lids, but does not include roll-in or roll-through cabinets or pass-through cabinets.~~

~~((16)) (14)(a) "Roll-in cabinet" means a commercial refrigerator or freezer with hinged or sliding doors that allow wheeled racks of product to be rolled into the unit.~~

(b) "Roll-through cabinet" means a commercial refrigerator or freezer with hinged or sliding doors on two sides of the cabinet that allow wheeled racks of product to be rolled through the unit.

~~((17)) (15)(a) "Single-voltage external AC to DC power supply" means a device that: (i) Is designed to convert line voltage alternating current input into lower voltage direct current output; (ii) is able to convert to only one DC output voltage at a time; (iii) is sold with, or intended to be used with, a separate end-use product that constitutes the primary power load; (iv) is contained within a separate physical enclosure from the end-use product; (v) is connected to the end-use product via a removable or hard-wired male/female electrical connection, cable, cord, or other wiring; and (vi) has a nameplate output power less than or equal to 250 watts.~~

(b) "Single-voltage external AC to DC power supply" does not include: (i) Products with batteries or battery packs that physically attach directly to the power supply unit; (ii) products with a battery chemistry or type selector switch and indicator light; or (iii) products with a battery chemistry or type selector switch and a state of charge meter.

~~((18)) (16) "State-regulated incandescent reflector lamp" means a lamp that is not colored or designed for rough or vibration service applications, that has an inner reflective coating on the outer bulb to direct the light, an E26 medium screw base, and a rated voltage or voltage range that lies at least partially within 115 to 130 volts, and that falls into one of the following categories:~~

(a) A bulged reflector or elliptical reflector bulb shape and which has a diameter which equals or exceeds 2.25 inches;

(b) A reflector, parabolic aluminized reflector, or similar bulb shape and which has a diameter of 2.25 to 2.75 inches.

~~((19))~~ "Torchiere" means a portable electric lighting fixture with a reflective bowl that directs light upward onto a ceiling so as to produce indirect illumination on the surfaces below. "Torchiere" may include downward directed lamps in addition to the upward, indirect illumination.

~~(20)~~ "Traffic signal module" means a standard (a) 8-inch or 200 mm or (b) 12-inch or 300 mm traffic signal indication, consisting of a light source, a lens, and all other parts necessary for operation.

~~(21))~~ (17) "Transformer" means a device consisting of two or more coils of insulated wire and that is designed to transfer alternating current by electromagnetic induction from one coil to another to change the original voltage or current value.

~~((22))~~ (18)(a) "Unit heater" means a self-contained, vented fan-type commercial space heater that uses natural gas or propane, and that is designed to be installed without ducts within a heated space.

(b) "Unit heater" does not include any products covered by federal standards established pursuant to 42 U.S.C. Sec. 6291 et seq. or any product that is a direct vent, forced flue heater with a sealed combustion burner.

Sec. 2. RCW 19.260.030 and 2005 c 298 s 3 are each amended to read as follows:

(1) This chapter applies to the following types of new products sold, offered for sale, or installed in the state: (a) Automatic commercial ice cube machines; (b) commercial clothes washers; (c) commercial prerinse spray valves; (d) commercial refrigerators and freezers; (e) ~~(illuminated exit signs; (f) low-voltage dry-type distribution transformers; (g))~~ metal halide lamp fixtures; ~~((f))~~ (f) single-voltage external AC to DC power supplies; ~~((g))~~ (g) state-regulated incandescent reflector lamps; ~~((j) torchieres; (k) traffic signal modules;))~~ and ~~((h))~~ (h) unit heaters. This chapter applies equally to products whether they are sold, offered for sale, or installed as a stand-alone product or as a component of another product.

(2) This chapter does not apply to (a) new products manufactured in the state and sold outside the state, (b) new products manufactured outside the state and sold at wholesale inside the state for final retail sale and installation outside the state, (c) products installed in mobile manufactured homes at the time of construction~~((f))~~, or (d) products designed expressly for installation and use in recreational vehicles.

Sec. 3. RCW 19.260.040 and 2005 c 298 s 4 are each amended to read as follows:

The legislature establishes the following minimum efficiency standards for the types of new products set forth in RCW 19.260.030.

(1)(a) Automatic commercial ice cube machines must have daily energy use and daily water use no greater than the applicable values in the following table:

Equipment type	Type of cooling	Harvest rate (lbs. ice/24 hrs.)	Maximum energy use (kWh/100 lbs.)	Maximum condenser water use (gallons/100 lbs. ice)
Ice-making head	water	<500	7.80 - .0055H	200 - .022H
		>=500<1436	5.58 - .0011H	200 - .022H
		>=1436	4.0	200 - .022H

Ice-making head	air	450	10.26 - .0086H	Not applicable
		>=450	6.89 - .0011H	Not applicable
Remote condensing but not remote compressor	air	<1000	8.85 - .0038	Not applicable
		>=1000	5.10	Not applicable
Remote condensing and remote compressor	air	<934	8.85 - .0038H	Not applicable
		>=934	5.3	Not applicable
Self-contained models	water	<200	11.40 - .0190H	191 - .0315H
		>=200	7.60	191 - .0315H
Self-contained models	air	<175	18.0 - .0469H	Not applicable
		>=175	9.80	Not applicable

Where H = harvest rate in pounds per twenty-four hours which must be reported within 5% of the tested value. "Maximum water use" applies only to water used for the condenser.

(b) For purposes of this section, automatic commercial ice cube machines shall be tested in accordance with ARI 810-2003 test method as published by the air-conditioning and refrigeration institute. Ice-making heads include all automatic commercial ice cube machines that are not split system ice makers or self-contained models as defined in ARI 810-2003.

(2) Commercial clothes washers must have a minimum modified energy factor of 1.26. For the purposes of this section, capacity and modified energy factor are defined and measured in accordance with the current federal test method for clothes washers as found at 10 C.F.R. Sec. 430.23.

(3) Commercial prerinse spray valves must have a flow rate equal to or less than 1.6 gallons per minute when measured in accordance with the American society for testing and materials' "Standard Test Method for Prerinse Spray Valves," ASTM F2324-03.

(4)(a) Commercial refrigerators and freezers must meet the applicable requirements listed in the following table:

Equipment Type	Doors	Maximum Daily Energy Consumption (kWh)
Reach-in cabinets, pass-through cabinets, and roll-in or roll-through cabinets that are refrigerators	Solid	0.10V + 2.04
	Transparent	0.12V + 3.34

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Reach-in cabinets, pass-through cabinets, and roll-in or roll-through cabinets that are "pulldown" refrigerators	Trans parent	.126V + 3.51	≥75 <100	98.5	≥112.5 <150	98.2
			≥100 <167	98.6	≥150 <225	98.3
			≥167 <250	98.7	≥225 <300	98.5
			≥250 <333	98.8	≥300 <500	98.6
Reach-in cabinets, pass-through cabinets, and roll-in or roll-through cabinets that are freezers	Solid	0.40V + 1.38	333	98.9	≥500 <750	98.7
			=	=	≥750 <1000	98.8
Reach-in cabinets that are refrigerator-freezers with an AV of 5.19 or higher	Trans parent	0.75V + 4.10	=	=	1000	98.9
			=	=		

kVa = kilovolt amperes

Reach-in cabinets that are refrigerator-freezers with an AV of 5.19 or higher

kWh = kilowatt hours
 V = total volume (ft³)
 AV = adjusted volume = [1.63 x freezer volume (ft³) + refrigerator volume (ft³)]

(b) For purposes of this section, "pulldown" designates products designed to take a fully stocked refrigerator with beverages at 90 degrees F and cool those beverages to a stable temperature of 38 degrees F within 12 hours or less. Daily energy consumption shall be measured in accordance with the American national standards institute/American society of heating, refrigerating and air-conditioning engineers test method 117-2002, except that the back-loading doors of pass-through and roll-through refrigerators and freezers must remain closed throughout the test, and except that the controls of all appliances must be adjusted to obtain the following product temperatures.

Product or compartment type	Integrated average product temperature in degrees Fahrenheit
Refrigerator	38 ± 2
Freezer	0 ± 2

~~(5) (Illuminated exit signs must have an input power demand of five watts or less per illuminated face. For the purposes of this section, input power demand is measured in accordance with the United States environmental protection agency's energy star exit sign program's conditions for testing, version 3.0. Illuminated exit signs must meet all applicable building and safety codes.~~

~~(6)(a) Low-voltage dry-type distribution transformers shall have efficiencies not less than the applicable values in the following table when tested at thirty-five percent of the rated output power:~~

Single-Phase		Three-Phase	
Rated power output in kVa	Minimum efficiency %	Rated power output in kVa	Minimum efficiency %
≥15 <25	97.7	≥15 <30	97.0
≥25 <37.5	98.0	≥30 <45	97.5
≥37.5 <50	98.2	≥45 <75	97.7
≥50 <75	98.3	≥75 <112.5	98.0

~~(b) For the purposes of this section, low-voltage dry-type distribution transformer efficiency is measured in accordance with the national electrical manufacturers association TP 2-1998 test method:~~

~~(7)) Metal halide lamp fixtures designed to be operated with lamps rated greater than or equal to 150 watts but less than or equal to 500 watts shall not contain a probe-start metal halide lamp ballast.~~

~~((8)) (6)(a) Single-voltage external AC to DC power supplies shall meet the requirements in the following table:~~

Nameplate output	Minimum Efficiency in Active Mode
< 1 Watt	0.49 * Nameplate Output
> or = 1 Watt and < or = 49 Watts	0.09 * Ln (Nameplate Output) + 0.49
> 49 Watts	0.84
	Maximum Energy Consumption in No-Load Mode
< 10 Watts	0.5 Watts
> or = 10 Watts and < or = 250 Watts	0.75 Watts

Where Ln (Nameplate Output) - Natural Logarithm of the nameplate output expressed in Watts

(b) For the purposes of this section, efficiency of single-voltage external AC to DC power supplies shall be measured in accordance with the United States environmental protection agency's "Test Method for Calculating the Energy Efficiency of Single-Voltage External AC to DC and AC to AC Power Supplies," by Ecos Consulting and Power Electronics Application Center, dated August 11, 2004.

~~((9)) (7)(a) State-regulated incandescent reflector lamps ((that are not 50-watt elliptical reflector lamps must meet the minimum efficacies in the following table:~~

Wattage	Minimum average lamp efficacy (lumens per watt)
40-50	10.5
51-66	11.0
67-85	12.5
86-115	14.0
116-155	14.5
156-205	15.0

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~~— (b) Lamp efficacy must be measured in accordance with the applicable federal test method as found at 10 C.F.R. Sec. 430.23.~~

~~— (10) Torchierees may not use more than 190 watts. A torchiere is deemed to use more than 190 watts if any commercially available lamp or combination of lamps can be inserted in a socket and cause the torchiere to draw more than 190 watts when operated at full brightness.~~

~~— (11)(a) Traffic signal modules must have maximum and nominal wattage that do not exceed the applicable values in the following table:~~

Module Type	Maximum Wattage (at 74°C)	Nominal Wattage (at 25°C)
12" red ball (or 300 mm circular)	17	11
8" red ball (or 200 mm circular)	13	8
12" red arrow (or 300 mm arrow)	12	9
12" green ball (or 300 mm circular)	15	15
8" green ball (or 200 mm circular)	12	12
12" green arrow (or 300 mm arrow)	11	11

mm = millimeter

~~— (b) For the purposes of this section, maximum wattage and nominal wattage must be measured in accordance with and under the testing conditions specified by the institute for transportation engineers "Interim LED Purchase Specification, Vehicle Traffic Control Signal Heads, Part 2: Light Emitting Diode Vehicle Traffic Signal Modules.") shall meet the minimum average lamp efficacy requirements for federally regulated incandescent reflector lamps contained in 42 U.S.C. Sec. 6295(i)(1)(A).~~

~~(b) The following types of incandescent lamps are exempt from these requirements:~~

~~(i) Lamps rated at fifty watts or less of the following types: BR 30, ER 30, BR 40, and ER 40;~~

~~(ii) Lamps rated at sixty-five watts of the following types: BR 30, BR 40, and ER 40; and~~

~~(iii) R 20 lamps of forty-five watts or less.~~

~~((12)) (8) Unit heaters must be equipped with intermittent ignition devices and must have either power venting or an automatic flue damper.~~

Sec. 4. RCW 19.260.050 and 2005 c 298 s 5 are each amended to read as follows:

(1) ~~((On or after January 1, 2007;))~~ No new commercial prerinse spray valve, commercial clothes washer, commercial refrigerator or freezer, ~~((Illuminated exit sign, low-voltage dry-type distribution transformer, single-voltage external AC to DC power supply;))~~ state-regulated incandescent reflector lamp, ~~((torchiere, traffic signal module;))~~ or unit heater manufactured on or after January 1, 2007, may be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040. ~~((On or after January 1, 2008;))~~ No new automatic commercial ice cube machine, single-voltage external AC to DC power supply, or metal halide lamp fixtures manufactured on or after January 1, 2008, may be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040.

(2) On or after January 1, 2008, no new commercial prerinse spray valve, commercial clothes washer, commercial refrigerator or freezer, ~~((Illuminated exit sign, low-voltage dry-type distribution transformer;))~~ single-voltage external AC to DC power supply, state-regulated incandescent reflector lamp, ~~((torchiere, traffic signal module;))~~ or unit heater manufactured on or after January 1, 2007, may be installed for compensation in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040. On or after January 1, 2009, no new automatic commercial ice cube machine or metal halide lamp fixtures manufactured on or after January 1, 2008, may be installed for compensation in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040.

(3) Standards for metal halide lamp fixtures and state-regulated incandescent reflector lamps are effective on the dates in subsections (1) and (2) of this section." and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Poulsen moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6840.

Senators Poulsen and Morton spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Poulsen that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6840.

The motion by Senator Poulsen carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6840 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6840, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6840, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Decio, Delvin, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Oke, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudau, Weinstein and Zarelli - 42

Excused: Senators Benson, Brown, Doumit, Finkbeiner, Haugen, McCaslin and Parlette - 7

SUBSTITUTE SENATE BILL NO. 6840, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 2:32 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Monday, March 6, 2006.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

1305	President Signed	2	2726-S	President Signed	3
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 Introduced 14

9213 Shirley Winsley

 Confirmed 2

9393 Lura Powell

 Confirmed 1

PRESIDENT OF THE SENATE

 Intro. Special Guest, Senator Deccio family & friends . . 24

 Remarks by the President 20

WASHINGTON STATE SENATE

 Personal Privilege, Senator Carrell 20

 Personal Privilege, Senator Deccio 21

 Personal Privilege, Senator Eide 20

 Personal Privilege, Senator Franklin 21

 Personal Privilege, Senator Oke 20

 Personal Privilege, Senator Swecker 19