BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: Z-0238.1/15

ATTY/TYPIST: BP:akl

BRIEF DESCRIPTION: Concerning licensing requirements and enforcement procedures for certain vehicle and vessel dealers and other transportation-related programs regulated by the department of licensing.

AN ACT Relating to licensing requirements and enforcement procedures for certain vehicle and vessel dealers and other transportation-related programs regulated by the department of licensing; and amending RCW 18.235.020, 18.235.130, 46.09.380, 46.09.490, 46.10.360, 46.10.485, 46.10.500, 46.55.020, 46.55.025, 46.55.035, 46.55.200, 46.55.210, 46.55.220, 46.70.101, 46.70.102, 46.70.111, 46.70.115, 46.70.140, 46.70.170, 46.70.180, 46.70.270, 46.76.065, 46.76.080, 46.79.070, 46.79.120, 46.80.020, 46.80.080, 46.80.110, 46.80.130, 46.80.170, 46.80.180, 46.80.190, 88.02.380, 88.02.740, 88.02.750, and 46.70.041.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

PART I - UNIFORM REGULATION OF BUSINESS AND PROFESSIONS ACT

Sec. 101. RCW 18.235.020 and 2013 c 322 s 29 are each amended to read as follows:

(1) This chapter applies only to the director and the boards and commissions having jurisdiction in relation to the businesses and professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The director has authority under this chapter in relation to the following businesses and professions:

(i) Auctioneers under chapter 18.11 RCW;

(ii) Bail bond agents and bail bond recovery agents under chapter 18.185 RCW;

(iii) Camping resorts' operators and salespersons under chapter 19.105 RCW;

(iv) Commercial telephone solicitors under chapter 19.158 RCW;

(v) Cosmetologists, barbers, manicurists, and estheticians under chapter 18.16 RCW;

(vi) Court reporters under chapter 18.145 RCW;

(vii) Driver training schools and instructors under chapter 46.82 RCW;

(viii) Employment agencies under chapter 19.31 RCW;

(ix) For hire vehicle operators under chapter 46.72 RCW;

(x) Limousines under chapter 46.72A RCW;

(xi) Notaries public under chapter 42.44 RCW;

(xii) Private investigators under chapter 18.165 RCW;

(xiii) Professional boxing, martial arts, and wrestling under chapter 67.08 RCW;

(xiv) Real estate appraisers under chapter 18.140 RCW;

(xv) Real estate brokers and salespersons under chapters 18.85 and 18.86 RCW;

(xvi) Scrap metal processors, scrap metal recyclers, and scrap metal suppliers under chapter 19.290 RCW;

(xvii) Security guards under chapter 18.170 RCW;

(xviii) Sellers of travel under chapter 19.138 RCW;

(xix) Timeshares and timeshare salespersons under chapter 64.36 RCW;

(xx) Whitewater river outfitters under chapter 79A.60 RCW;

(xxi) Home inspectors under chapter 18.280 RCW;

(xxii) Body artists, body piercers, and tattoo artists, and body art, body piercing, and tattooing shops and businesses, under chapter 18.300 RCW; ((~~and~~))

(xxiii) Appraisal management companies under chapter 18.310 RCW;

(xxiv) Off-road vehicle dealers under chapter 46.09 RCW;

(xxv) Snowmobile dealers under chapter 46.10 RCW;

(xxvi) Registered tow truck operators under chapter 46.55 RCW;

(xxvii) Vehicle dealers and manufacturers under chapter 46.70 RCW;

(xxviii) Motor vehicle transporters under chapter 46.76 RCW;

(xxix) Hulk haulers and scrap processors under chapter 46.79 RCW;

(xxx) Vehicle wreckers under chapter 46.80 RCW; and

(xxxi) Vessel dealers under chapter 88.02 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

(i) The state board for architects established in chapter 18.08 RCW;

(ii) The Washington state collection agency board established in chapter 19.16 RCW;

(iii) The state board of registration for professional engineers and land surveyors established in chapter 18.43 RCW governing licenses issued under chapters 18.43 and 18.210 RCW;

(iv) The funeral and cemetery board established in chapter 18.39 RCW governing licenses issued under chapters 18.39 and 68.05 RCW;

(v) The state board of licensure for landscape architects established in chapter 18.96 RCW; and

(vi) The state geologist licensing board established in chapter 18.220 RCW.

(3) In addition to the authority to discipline license holders, the disciplinary authority may grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered under RCW 18.235.110 by the disciplinary authority.

Sec. 102. RCW 18.235.130 and 2007 c 256 s 19 are each amended to read as follows:

The following conduct, acts, or conditions constitute unprofessional conduct for any license holder or applicant under the jurisdiction of this chapter:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession or operation of the person's business, whether the act constitutes a crime or not. At the disciplinary hearing, a certified copy of a final holding of any court of competent jurisdiction is conclusive evidence of the conduct of the license holder or applicant upon which a conviction or the final holding is based. Upon a

conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Except as specifically provided by law, nothing in this subsection abrogates the provisions of chapter 9.96A RCW. However, RCW 9.96A.020 does not apply to a person who is required to register as a sex offender under RCW 9A.44.130;

(2) Misrepresentation or concealment of a material fact in obtaining or renewing a license or in reinstatement thereof;

(3) Advertising that is false, deceptive, or misleading;

(4) Incompetence, negligence, or malpractice that results in harm or damage to another or that creates an unreasonable risk of harm or damage to another;

(5) The suspension, revocation, or restriction of a license to engage in any business or profession by competent authority in any state, federal, or foreign jurisdiction. A certified copy of the order, stipulation, or agreement is conclusive evidence of the revocation, suspension, or restriction;

(6) Failure to cooperate with the disciplinary authority in the course of an investigation, audit, or inspection authorized by law by:

(a) Not furnishing any papers or documents requested by the disciplinary authority;

(b) Not furnishing in writing an explanation covering the matter contained in a complaint when requested by the disciplinary authority;

(c) Not responding to a subpoena issued by the disciplinary authority, whether or not the recipient of the subpoena is the accused in the proceeding; or

(d) Not providing authorized access, during regular business hours, to representatives of the disciplinary authority conducting an investigation, inspection, or audit at facilities utilized by the license holder or applicant;

(7) Failure to comply with an order issued by the disciplinary authority;

(8) Violating any of the provisions of this chapter or the chapters specified in RCW 18.235.020(2) or any rules made by the disciplinary authority under the chapters specified in RCW 18.235.020(2);

(9) Aiding or abetting an unlicensed person to practice or operate a business or profession when a license is required;

(10) Practice or operation of a business or profession beyond the scope of practice or operation as defined by law or rule;

(11) Misrepresentation in any aspect of the conduct of the business or profession;

(12) Failure to adequately supervise or oversee auxiliary staff, whether employees or contractors, to the extent that consumers may be harmed or damaged;

(13) Conviction of any gross misdemeanor or felony relating to the practice of the person's profession or operation of the person's business. For the purposes of this subsection, "conviction" includes all instances in which: (a) A plea of guilty or nolo contendere is the basis for conviction ((~~and all proceedings in which~~)), (b) the sentence has been deferred or suspended, or (c) the payment of a fine has been ordered. Except as specifically provided by law, nothing in this subsection abrogates the provisions of chapter 9.96A RCW. However, RCW 9.96A.020 does not apply to a person who is required to register as a sex offender under RCW 9A.44.130;

(14) Interference with an investigation or disciplinary action by willful misrepresentation of facts before the disciplinary authority or its authorized representatives, or by the use of threats or harassment against any consumer or witness to discourage them from providing evidence in a disciplinary action or any other legal action, or by the use of financial inducements to any consumer or witness to prevent or attempt to prevent him or her from providing evidence in a disciplinary action; and

(15) Engaging in unlicensed practice as defined in RCW 18.235.010.

PART II - OFF-ROAD VEHICLE DEALERS

Sec. 201. RCW 46.09.380 and 2001 c 253 s 3 are each amended to read as follows:

((~~The provisions of~~)) (1) This chapter ((~~shall be~~)) is enforced by all persons having the authority to enforce any of the laws of

this state, including, without limitation, officers of the state patrol, county sheriffs and their deputies, all municipal law enforcement officers within their respective jurisdictions, fish and wildlife officers, state park rangers, and those employees of the department of natural resources designated by the commissioner of public lands under RCW ((~~43.30.310~~)) 43.12.065, 76.04.035, and 76.04.045.

(2) Chapter 18.235 RCW governs unlicensed practice as a dealer, the issuance and denial of licenses and permits, and the discipline of licensees and persons required to be licensed as a dealer under this chapter.

(3)(a) The director may take any disciplinary action authorized under RCW 18.235.110 against any applicant for or holder of an off-road vehicle dealer license or person required to be licensed under this chapter if the director finds that the person, applicant, or licensee, any partner, officer, director, or owner of ten percent of the assets of the firm, or any employee or agent has engaged in any unprofessional conduct described in RCW 18.235.130.

(b) Any monetary penalty imposed under this section may not exceed five hundred dollars per violation.

Sec. 202. RCW 46.09.490 and 2011 c 171 s 29 are each amended to read as follows:

(1) Except as provided in RCW 46.09.380(2), 46.09.470(2), and 46.09.480 as now or hereafter amended, violation of the provisions of this chapter is a traffic infraction for which a penalty of not less than twenty-five dollars may be imposed.

(2) In addition to the penalties provided in subsection (1) of this section, the owner and/or the operator of any nonhighway vehicle shall be liable for any damage to property including damage to trees, shrubs, or growing crops injured as the result of travel by the nonhighway vehicle. The owner of such property may recover from the person responsible three times the amount of damage.

PART III - SNOWMOBILE DEALERS

Sec. 301. RCW 46.10.360 and 2001 c 253 s 4 are each amended to read as follows:

((~~The provisions of~~)) (1) This chapter ((~~shall be~~)) is enforced by all persons having the authority to enforce any of the laws of

this state, including, without limitation, officers of the state patrol, county sheriffs and their deputies, all municipal law enforcement officers within their respective jurisdictions, fish and wildlife officers, state park rangers, and those employees of the department of natural resources designated by the commissioner of public lands under RCW ((~~43.30.310~~)) 43.12.065, as having police powers to enforce the laws of this state.

(2) Chapter 18.235 RCW governs unlicensed practice as a dealer, the issuance and denial of licenses and permits, and the discipline of licensees and persons required to be licensed as a dealer under this chapter.

Sec. 302. RCW 46.10.485 and 2010 c 161 s 232 are each amended to read as follows:

(1) The director may ((~~by order deny, suspend, or revoke the license of any snowmobile dealer or, in lieu thereof or in addition thereto, may by order assess monetary civil penalties not to exceed five hundred dollars per violation,~~)) take any disciplinary action authorized under RCW 18.235.110 against any applicant for or holder of a snowmobile dealer license or person required to be licensed under this chapter if the director finds that ((~~the order is in the public interest and that~~)) the person, applicant, or licensee, or any partner, officer, director, or owner of ten percent of the assets of the firm, or any employee or agent((~~:~~

~~(1) Has failed to comply with the applicable provisions of this chapter or any rules adopted under this chapter; or~~

~~(2) Has failed to pay any monetary civil penalty assessed by the director under this section within ten days after the assessment becomes final~~)) has engaged in any unprofessional conduct described in RCW 18.235.130.

(2) Any monetary penalty imposed under this section may not exceed five hundred dollars per violation.

Sec. 303. RCW 46.10.500 and 2011 c 171 s 33 are each amended to read as follows:

(1) Except as provided in RCW 46.10.360(2), 46.10.490(2), 46.10.485, and 46.10.495, any violation of the provisions of this chapter is a traffic infraction: PROVIDED, That the penalty for failing to display a valid registration decal under RCW 46.10.490 as now or hereafter amended shall be a fine of forty dollars and such

fine shall be remitted to the general fund of the governmental unit, which personnel issued the citation, for expenditure solely for snowmobile law enforcement.

(2) In addition to the penalties provided in RCW 46.10.490 and subsection (1) of this section, the operator and/or the owner of any snowmobile used with the permission of the owner shall be liable for three times the amount of any damage to trees, shrubs, growing crops, or other property injured as the result of travel by such snowmobile over the property involved.

PART IV - TOW TRUCK OPERATORS

Sec. 401. RCW 46.55.020 and 2003 c 53 s 243 are each amended to read as follows:

(1) A person shall not engage in or offer to engage in the activities of a registered tow truck operator without a current registration certificate from the department of licensing authorizing him or her to engage in such activities.

(2) Any person engaging in or offering to engage in the activities of a registered tow truck operator without the registration certificate required by this chapter is guilty of a gross misdemeanor <u>and is subject to disciplinary action that may be imposed by the director under RCW 46.55.200</u>.

(3) <u>Except as otherwise provided under this chapter, a</u> registered operator who engages in ((~~a business~~)) <u>any act or</u> practice that is prohibited under this chapter may be ((~~issued a notice of~~))<u>: (a) Prosecuted for a</u> traffic infraction under chapter 46.63 RCW ((~~and is also~~))<u>, or (b)</u> subject to the civil penalties <u>or disciplinary actions</u> that may be imposed by the department under this chapter.

(4) A person found to have committed an offense that is a traffic infraction under this chapter is subject to a monetary penalty of at least two hundred fifty dollars.

(5) All traffic infractions issued under this chapter shall be under the jurisdiction of the district court in whose jurisdiction they were issued.

<u>(6) Chapter 18.235 RCW governs unlicensed practice as a registered tow truck operator, the issuance and denial of registration certificates and permits, and the discipline of registered tow truck operators and persons required to be registered as a registered tow truck operator under this chapter.</u>

Sec. 402. RCW 46.55.025 and 1995 c 360 s 2 are each amended to read as follows:

A vehicle engaging in the business of recovery of disabled vehicles for monetary compensation((~~,~~)) from or on a public road or highway must either be operated by a registered tow truck operator, or someone who at a minimum has insurance in a like manner and amount as prescribed in RCW 46.55.030(3), and have had ((~~their~~)) his or her tow trucks inspected in a like manner as prescribed by RCW 46.55.040(1). The department shall adopt rules to enforce this section. Failure to comply with this section is a class 1 civil infraction punishable under RCW 7.80.120 and subjects the violator to any disciplinary action that may be imposed by the director under RCW 46.55.200.

Sec. 403. RCW 46.55.035 and 2012 c 18 s 1 are each amended to read as follows:

(1) No registered tow truck operator may:

(a) Except as authorized under RCW 46.55.037, ask for or receive any compensation, gratuity, reward, or promise thereof from a person having control or possession of private property or from an agent of the person authorized to sign an impound authorization, for or on account of the impounding of a vehicle;

(b) Be beneficially interested in a contract, agreement, or understanding that may be made by or between a person having control or possession of private property and an agent of the person authorized to sign an impound authorization;

(c) Have a financial, equitable, or ownership interest in a firm, partnership, association, or corporation whose functions include acting as an agent or a representative of a property owner for the purpose of signing impound authorizations;

(d) Enter into any contract or agreement or offer any program that provides an incentive to a person authorized to order a private impound under RCW 46.55.080 that is related to the authorization of an impound or a number of impounds.

(i) The incentives prohibited by this section may be either monetary or nonmonetary things of value, such as gifts or prizes which are contingent on, or as a reward for the authorization of impounds.

(ii) Gifts of de minimis value that are given in the ordinary course of business and are not tied to any specific decision to

authorize an impound or impounds are not prohibited. Permitted gifts would include promotional items such as pens, calendars, cups, and other items labeled with the registered tow truck operator's business information, holiday gifts such as cookies or candy, flowers for occasions such as illness or death, or the cost of a single meal for one person when discussing business.

(iii) The provision of the actual physical signs required by this chapter to be posted on private property and the labor and materials for placing them is not a violation of this section.

(2) This section does not prohibit the registered tow truck operator from collecting the costs of towing, storage, tolls or ferry fares paid, or other services rendered during the course of towing, removing, impounding, or storing of an impounded vehicle as provided by RCW 46.55.120.

(3) A violation of this section is a gross misdemeanor and subjects the violator to any disciplinary action that may be imposed by the director under RCW 46.55.200.

Sec. 404. RCW 46.55.200 and 2010 c 8 s 9063 are each amended to read as follows:

((~~A registered tow truck operator's license may be denied, suspended, or revoked, or the licensee may be ordered to pay a monetary penalty of a civil nature, not to exceed one thousand dollars per violation, or the licensee may be subjected to any combination of license and monetary penalty,~~)) (1) The director may take any disciplinary action authorized under RCW 18.235.110 against any registered tow truck operator or person required to be registered as a registered tow truck operator under this chapter whenever the director either finds that the registered tow truck operator or person has engaged in any unprofessional conduct described in RCW 18.235.130 or has reason to believe that the ((~~licensee~~)) registered tow truck operator or person has committed, or is at the time committing, a violation of this chapter or rules adopted under it or any other statute or rule relating to the title or disposition of vehicles or vehicle hulks, including, but not limited to:

((~~(1)~~)) (a) Towing any abandoned vehicle without first obtaining and having in the operator's possession at all times while transporting it, appropriate evidence of ownership or an impound authorization properly executed by the private person or public

official having control over the property on which the unauthorized vehicle was found;

((~~(2)~~)) (b) Forging the signature of the registered or legal owner on a certificate of title, or forging the signature of any authorized person on documents pertaining to unauthorized or abandoned vehicles or automobile hulks;

((~~(3)~~)) (c) Failing to comply with the statutes and rules relating to the processing and sale of abandoned vehicles;

((~~(4)~~)) (d) Failing to accept bids on any abandoned vehicle offered at public sale;

((~~(5)~~)) (e) Failing to transmit to the state surplus funds derived from the sale of an abandoned vehicle;

((~~(6)~~)) (f) Selling, disposing of, or having in his or her possession, without notifying law enforcement officials, a vehicle that he or she knows or has reason to know has been stolen or illegally appropriated without the consent of the owner;

((~~(7)~~)) (g) Failing to comply with the statutes and rules relating to the transfer of ownership of vehicles or other procedures after public sale; or

((~~(8)~~)) (h) Failing to pay any civil monetary penalty assessed by the director pursuant to this section within ten days after the assessment becomes final.

(2) Any monetary penalty imposed under this section may not exceed one thousand dollars per violation.

(3) All orders by the director made under this chapter are subject to ((~~the Administrative Procedure Act,~~)) chapter 34.05 RCW.

Sec. 405. RCW 46.55.210 and 1987 c 311 s 17 are each amended to read as follows:

Whenever it appears to the director that any registered tow truck operator or a person offering towing services has engaged in or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule adopted hereunder, the director may, in addition to taking any disciplinary action under RCW 46.55.200 and pursuant to RCW 18.235.150, issue a temporary cease and desist order or a notice of intent to issue an order directing the operator or person to cease and desist from continuing the act or practice. ((~~Reasonable notice of and opportunity for a hearing shall be given. The director may issue a temporary order pending a hearing. The temporary order shall remain in effect until ten days after the~~

~~hearing is held and shall become final if the person to whom notice is addressed does not request a hearing within fifteen days after the receipt of notice.~~))

Sec. 406. RCW 46.55.220 and 1987 c 311 s 18 are each amended to read as follows:

If an application for a license to conduct business as a registered tow truck operator is filed by any person whose license has previously been canceled for cause by the department, or if the department is of the opinion that the application is not filed in good faith or that the application is filed by some person as a subterfuge for the real person in interest whose license has previously been canceled for cause, the department, after a hearing((~~, of which the applicant has been given twenty days' notice in writing and at which the applicant may appear in person or by counsel and present testimony~~)) as provided for under RCW 18.235.050, may refuse to issue such a person a license to conduct business as a registered tow truck operator.

PART V - MOTOR VEHICLE DEALERS AND MANUFACTURERS

Sec. 501. RCW 46.70.101 and 2011 c 171 s 91 are each amended to read as follows:

(1) The director may ((~~by order deny, suspend, or revoke the license of any vehicle dealer or vehicle manufacturer or, in lieu thereof or in addition thereto, may by order assess monetary penalties of a civil nature not to exceed one thousand dollars per violation,~~)) take any disciplinary action authorized under RCW 18.235.110 against any applicant for or holder of a vehicle dealer or manufacturer license or person required to be licensed under this chapter if the director finds that ((~~the order is in the public interest and that~~)) the person, applicant, or licensee has engaged in any unprofessional conduct described in RCW 18.235.130 or:

((~~(1)~~)) (a) In the case of a vehicle dealer:

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

((~~(i)~~)) (A) Was the holder of a license issued pursuant to this chapter, which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of

the suspension have not been fulfilled or which license was assessed a civil penalty and the assessed amount has not been paid;

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

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

((~~(iv)~~)) (D) Has knowingly, or with reason to know, provided the department with false information relating to the number of vehicle sales transacted during the past one year in order to obtain a vehicle dealer license plate;

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

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

((~~(vii)~~)) (G) Sells, exchanges, offers, brokers, auctions, solicits, or advertises a new or current model vehicle to which a factory new vehicle warranty attaches and fails to have a valid, written service agreement as required by this chapter, or having such agreement refuses to honor the terms of such agreement within a reasonable time or repudiates the same, except for sales by wholesale motor vehicle auction dealers to franchise motor vehicle dealers of the same make licensed under this title or franchise motor vehicle dealers of the same make licensed by any other state;

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

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

((~~(x)~~)) (J) Fails to notify the department of bankruptcy proceedings in the manner required by RCW 46.70.183;

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

((~~(xii)~~)) (L) Fails to have a current certificate or registration with the department of revenue.

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

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

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

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

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

((~~(v)~~)) (E) Has willfully failed to deliver to a purchaser or owner a certificate of title to a vehicle which he or she has sold or leased;

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

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

((~~(viii)~~)) (H) Has engaged in practices inimical to the health or safety of the citizens of the state of Washington including, but not limited to, failure to comply with standards set by the state of Washington or the federal government pertaining to the construction or safety of vehicles, except for sales by wholesale motor vehicle auction dealers to motor vehicle dealers and vehicle wreckers

licensed under this title or motor vehicle dealers licensed by any other state;

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

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

((~~(xi)~~)) (K) Has sold any vehicle with actual knowledge that:

((~~(A)~~)) (I) It has any of the following brands on the title: "SALVAGE/REBUILT," "JUNK," or "DESTROYED"; or

((~~(B)~~)) (II) It has been declared totaled out by an insurance carrier and then rebuilt; or

((~~(C)~~)) (III) The vehicle title contains the specific comment that the vehicle is "rebuilt";

without clearly disclosing that brand or comment in writing.

((~~(c)~~)) (iii) The licensee or any partner, officer, director, or owner of ten percent or more of the assets of the firm holds or has held any such position in any other vehicle dealership licensed pursuant to this chapter which is subject to final proceedings under this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Any monetary penalty imposed under this section may not exceed one thousand dollars per violation.

Sec. 502. RCW 46.70.102 and 2010 c 8 s 9083 are each amended to read as follows:

((~~Upon the entry of the order under RCW 46.70.101 the director shall promptly notify the applicant or licensee that the order has been entered and of the reasons therefor and that if requested by the applicant or licensee within fifteen days after the receipt of the director's notification, the matter will be promptly set down for hearing pursuant to chapter 34.05 RCW. If no hearing is requested and none is ordered by the director, the order will remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, the director, or his or her personal representative, after notice of and opportunity for hearing, may modify or vacate the order, or extend it until final determination. No final order may be entered under RCW 46.70.101 denying or revoking a license without appropriate prior notice to the applicant or licensee, opportunity for hearing, and written findings of fact and conclusions of law.~~)) Chapter 18.235 RCW governs unlicensed practice as a vehicle dealer or manufacturer, the issuance and denial of licenses and permits, and the discipline of licensees and persons required to be licensed as a vehicle dealer or manufacturer under this chapter.

Sec. 503. RCW 46.70.111 and 2010 c 8 s 9084 are each amended to read as follows:

(1) For the purpose of any investigation or proceeding under this chapter, the director or any officer designated by him or her may, pursuant to the authority under RCW 18.235.030, 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 which the director deems relevant or material to the inquiry.

((~~(1)~~)) (2) In case of contumacy by, or refusal to obey a subpoena issued to, any person, any court of competent jurisdiction, upon application by the director, may issue to that person an order requiring him or her to appear before the director, or the officer designated by him or her, to produce documentary or other evidence touching the matter under investigation or in question. The failure to obey an order of the court may be punishable by contempt.

Sec. 504. RCW 46.70.115 and 2000 c 131 s 1 are each amended to read as follows:

(1) If it appears to the director that a person has engaged or is about to engage in an act or practice constituting a violation of this chapter, or a rule adopted or an order issued under this chapter, the director may, in addition to taking any disciplinary action under RCW 46.70.101 and pursuant to RCW 18.235.150, issue a temporary cease and desist order or a notice of intent to issue an order directing the person to cease and desist from continuing the act or practice. ((~~Reasonable notice of and opportunity for a hearing shall be given. The director may issue a temporary order pending a hearing. The temporary order shall remain in effect until ten days after the hearing is held and shall become final if the person to whom the notice is addressed does not request a hearing within fifteen days after receipt of the notice.~~))

(2) The director may ((~~levy and collect a civil penalty, in an amount not to exceed one thousand dollars for each violation,~~)) take any disciplinary action authorized under RCW 18.235.110 against a person found by the director to be curbstoning, as that term is defined in subsection (3) of this section. ((~~A person against whom a civil penalty has been imposed must receive reasonable notice and an opportunity for a hearing on the issue. The civil penalty is due ten days after issuance of a final order.~~))

(3) For the purposes of subsection (2) of this section, "curbstoning" means a person or firm engaged in buying and offering for sale, or buying and selling, five or more vehicles that are each less than thirty years old in a twelve-month period without holding a vehicle dealer license. For the purpose of subsections (1) and (2) of this section, "curbstoning" does not include the sale of equipment or vehicles used in farming as defined in RCW 46.04.183 and sold by a farmer as defined in RCW 46.04.182.

(4) Any monetary penalty imposed under this section may not exceed one thousand dollars per violation.

Sec. 505. RCW 46.70.140 and 1993 c 307 s 9 are each amended to read as follows:

Any vehicle dealer who knowingly or with reason to know, buys or receives, sells or disposes of, conceals or has in the dealer's possession, any vehicle from which the motor or serial number has been removed, defaced, covered, altered, or destroyed, or any dealer,

who removes from or installs in any motor vehicle registered with the department by motor block number, a new or used motor block without immediately notifying the department of such fact upon a form provided by the department, or any vehicle dealer who loans or permits the use of vehicle dealer license plates by any person not entitled to the use thereof, is guilty of a gross misdemeanor and subject to disciplinary action that may be imposed by the director under RCW 46.70.102.

Sec. 506. RCW 46.70.170 and 1986 c 241 s 17 are each amended to read as follows:

It is unprofessional conduct, as described in RCW 18.235.130(8), and a misdemeanor for any person to violate any of the provisions of this chapter, except where expressly provided otherwise, and the rules adopted as provided under this chapter.

Sec. 507. RCW 46.70.180 and 2012 c 74 s 8 are each amended to read as follows:

Each of the following acts or practices is unlawful and subjects the violator to any disciplinary action that may be imposed by the director under RCW 46.70.101 and 46.70.102:

(1) To cause or permit to be advertised, printed, displayed, published, distributed, broadcasted, televised, or disseminated in any manner whatsoever, any statement or representation with regard to the sale, lease, or financing of a vehicle which is false, deceptive, or misleading, including but not limited to the following:

(a) That no down payment is required in connection with the sale of a vehicle when a down payment is in fact required, or that a vehicle may be purchased for a smaller down payment than is actually required;

(b) That a certain percentage of the sale price of a vehicle may be financed when such financing is not offered in a single document evidencing the entire security transaction;

(c) That a certain percentage is the amount of the service charge to be charged for financing, without stating whether this percentage charge is a monthly amount or an amount to be charged per year;

(d) That a new vehicle will be sold for a certain amount above or below cost without computing cost as the exact amount of the factory invoice on the specific vehicle to be sold;

(e) That a vehicle will be sold upon a monthly payment of a certain amount, without including in the statement the number of payments of that same amount which are required to liquidate the unpaid purchase price.

(2)(a)(i) To incorporate within the terms of any purchase and sale or lease agreement any statement or representation with regard to the sale, lease, or financing of a vehicle which is false, deceptive, or misleading, including but not limited to terms that include as an added cost to the selling price or capitalized cost of a vehicle an amount for licensing or transfer of title of that vehicle which is not actually due to the state, unless such amount has in fact been paid by the dealer prior to such sale.

(ii) However, an amount not to exceed one hundred fifty dollars per vehicle sale or lease may be charged by a dealer to recover administrative costs for collecting motor vehicle excise taxes, licensing and registration fees and other agency fees, verifying and clearing titles, transferring titles, perfecting, releasing, or satisfying liens or other security interests, and other administrative and documentary services rendered by a dealer in connection with the sale or lease of a vehicle and in carrying out the requirements of this chapter or any other provisions of state law.

(b) A dealer may charge the documentary service fee in (a) of this subsection under the following conditions:

(i) The documentary service fee is disclosed in writing to a prospective purchaser or lessee before the execution of a purchase and sale or lease agreement;

(ii) The dealer discloses to the purchaser or lessee in writing that the documentary service fee is a negotiable fee. The disclosure must be written in a typeface that is at least as large as the typeface used in the standard text of the document that contains the disclosure and that is bold faced, capitalized, underlined, or otherwise set out from the surrounding material so as to be conspicuous. The dealer shall not represent to the purchaser or lessee that the fee or charge is required by the state to be paid by either the dealer or prospective purchaser or lessee;

(iii) The documentary service fee is separately designated from the selling price or capitalized cost of the vehicle and from any other taxes, fees, or charges; and

(iv) Dealers disclose in any advertisement that a documentary service fee in an amount up to one hundred fifty dollars may be added to the sale price or the capitalized cost.

For the purposes of this subsection (2), the term "documentary service fee" means the optional amount charged by a dealer to provide the services specified in (a) of this subsection.

(3) To set up, promote, or aid in the promotion of a plan by which vehicles are to be sold or leased to a person for a consideration and upon further consideration that the purchaser or lessee agrees to secure one or more persons to participate in the plan by respectively making a similar purchase and in turn agreeing to secure one or more persons likewise to join in said plan, each purchaser or lessee being given the right to secure money, credits, goods, or something of value, depending upon the number of persons joining the plan.

(4) To commit, allow, or ratify any act of "bushing" which is defined as follows: Entering into a written contract, written purchase order or agreement, retail installment sales agreement, note and security agreement, or written lease agreement, hereinafter collectively referred to as contract or lease, signed by the prospective buyer or lessee of a vehicle, which:

(a) Is subject to any conditions or the dealer's or his or her authorized representative's future acceptance, and the dealer fails or refuses within four calendar days, exclusive of Saturday, Sunday, or legal holiday, and prior to any further negotiations with said buyer or lessee to inform the buyer or lessee either: (i) That the dealer unconditionally accepts the contract or lease, having satisfied, removed, or waived all conditions to acceptance or performance, including, but not limited to, financing, assignment, or lease approval; or (ii) that the dealer rejects the contract or lease, thereby automatically voiding the contract or lease, as long as such voiding does not negate commercially reasonable contract or lease provisions pertaining to the return of the subject vehicle and any physical damage, excessive mileage after the demand for return of the vehicle, and attorneys' fees authorized by law, and tenders the refund of any initial payment or security made or given by the buyer or lessee, including, but not limited to, any down payment, and tenders return of the trade-in vehicle, key, other trade-in, or certificate of title to a trade-in. Tender may be conditioned on

return of the subject vehicle if previously delivered to the buyer or lessee.

The provisions of this subsection (4)(a) do not impair, prejudice, or abrogate the rights of a dealer to assert a claim against the buyer or lessee for misrepresentation or breach of contract and to exercise all remedies available at law or in equity, including those under chapter 62A.9A RCW, if the dealer, bank, or other lender or leasing company discovers that approval of the contract or financing or approval of the lease was based upon material misrepresentations made by the buyer or lessee, including, but not limited to, misrepresentations regarding income, employment, or debt of the buyer or lessee, as long as the dealer, or his or her staff, has not, with knowledge of the material misrepresentation, aided, assisted, encouraged, or participated, directly or indirectly, in the misrepresentation. A dealer shall not be in violation of this subsection (4)(a) if the buyer or lessee made a material misrepresentation to the dealer, as long as the dealer, or his or her staff, has not, with knowledge of the material misrepresentation, aided, assisted, encouraged, or participated, directly or indirectly, in the misrepresentation.

When a dealer informs a buyer or lessee under this subsection (4)(a) regarding the unconditional acceptance or rejection of the contract, lease, or financing by an electronic mail message, the dealer must also transmit the communication by any additional means;

(b) Permits the dealer to renegotiate a dollar amount specified as trade-in allowance on a vehicle delivered or to be delivered by the buyer or lessee as part of the purchase price or lease, for any reason except:

(i) Failure to disclose that the vehicle's certificate of title has been branded for any reason, including, but not limited to, status as a rebuilt vehicle as provided in RCW 46.12.540 and 46.12.560; or

(ii) Substantial physical damage or latent mechanical defect occurring before the dealer took possession of the vehicle and which could not have been reasonably discoverable at the time of the taking of the order, offer, or contract; or

(iii) Excessive additional miles or a discrepancy in the mileage. "Excessive additional miles" means the addition of five hundred miles or more, as reflected on the vehicle's odometer, between the time the vehicle was first valued by the dealer for purposes of determining

its trade-in value and the time of actual delivery of the vehicle to the dealer. "A discrepancy in the mileage" means (A) a discrepancy between the mileage reflected on the vehicle's odometer and the stated mileage on the signed odometer statement; or (B) a discrepancy between the mileage stated on the signed odometer statement and the actual mileage on the vehicle; or

(c) Fails to comply with the obligation of any written warranty or guarantee given by the dealer requiring the furnishing of services or repairs within a reasonable time.

(5) To commit any offense relating to odometers, as such offenses are defined in RCW 46.37.540, 46.37.550, 46.37.560, and 46.37.570. A violation of this subsection is a class C felony punishable under chapter 9A.20 RCW.

(6) For any vehicle dealer or vehicle salesperson to refuse to furnish, upon request of a prospective purchaser or lessee, for vehicles previously registered to a business or governmental entity, the name and address of the business or governmental entity.

(7) To commit any other offense under RCW 46.37.423, 46.37.424, or 46.37.425.

(8) To commit any offense relating to a dealer's temporary license permit, including but not limited to failure to properly complete each such permit, or the issuance of more than one such permit on any one vehicle. However, a dealer may issue a second temporary permit on a vehicle if the following conditions are met:

(a) The lienholder fails to deliver the vehicle title to the dealer within the required time period;

(b) The dealer has satisfied the lien; and

(c) The dealer has proof that payment of the lien was made within two calendar days, exclusive of Saturday, Sunday, or a legal holiday, after the sales contract has been executed by all parties and all conditions and contingencies in the sales contract have been met or otherwise satisfied.

(9) For a dealer, salesperson, or mobile home manufacturer, having taken an instrument or cash "on deposit" from a purchaser or lessee prior to the delivery of the bargained-for vehicle, to commingle the "on deposit" funds with assets of the dealer, salesperson, or mobile home manufacturer instead of holding the "on deposit" funds as trustee in a separate trust account until the purchaser or lessee has taken delivery of the bargained-for vehicle. Delivery of a manufactured home shall be deemed to occur in

accordance with RCW 46.70.135(5). Failure, immediately upon receipt, to endorse "on deposit" instruments to such a trust account, or to set aside "on deposit" cash for deposit in such trust account, and failure to deposit such instruments or cash in such trust account by the close of banking hours on the day following receipt thereof, shall be evidence of intent to commit this unlawful practice: PROVIDED, HOWEVER, That a motor vehicle dealer may keep a separate trust account which equals his or her customary total customer deposits for vehicles for future delivery. For purposes of this section, "on deposit" funds received from a purchaser of a manufactured home means those funds that a seller requires a purchaser to advance before ordering the manufactured home, but does not include any loan proceeds or moneys that might have been paid on an installment contract.

(10) For a dealer or manufacturer to fail to comply with the obligations of any written warranty or guarantee given by the dealer or manufacturer requiring the furnishing of goods and services or repairs within a reasonable period of time, or to fail to furnish to a purchaser or lessee, all parts which attach to the manufactured unit including but not limited to the undercarriage, and all items specified in the terms of a sales or lease agreement signed by the seller and buyer or lessee.

(11) For a vehicle dealer to pay to or receive from any person, firm, partnership, association, or corporation acting, either directly or through a subsidiary, as a buyer's agent for consumers, any compensation, fee, purchase moneys or funds that have been deposited into or withdrawn out of any account controlled or used by any buyer's agent, gratuity, or reward in connection with the purchase, sale, or lease of a new motor vehicle.

(12) For a buyer's agent, acting directly or through a subsidiary, to pay to or to receive from any motor vehicle dealer any compensation, fee, gratuity, or reward in connection with the purchase, sale, or lease of a new motor vehicle. In addition, it is unlawful for any buyer's agent to engage in any of the following acts on behalf of or in the name of the consumer:

(a) Receiving or paying any purchase moneys or funds into or out of any account controlled or used by any buyer's agent;

(b) Signing any vehicle purchase orders, sales contracts, leases, odometer statements, or title documents, or having the name of the

buyer's agent appear on the vehicle purchase order, sales contract, lease, or title; or

(c) Signing any other documentation relating to the purchase, sale, lease, or transfer of any new motor vehicle.

It is unlawful for a buyer's agent to use a power of attorney obtained from the consumer to accomplish or effect the purchase, sale, lease, or transfer of ownership documents of any new motor vehicle by any means which would otherwise be prohibited under (a) through (c) of this subsection. However, the buyer's agent may use a power of attorney for physical delivery of motor vehicle license plates to the consumer.

Further, it is unlawful for a buyer's agent to engage in any false, deceptive, or misleading advertising, disseminated in any manner whatsoever, including but not limited to making any claim or statement that the buyer's agent offers, obtains, or guarantees the lowest price on any motor vehicle or words to similar effect.

(13) For a buyer's agent to arrange for or to negotiate the purchase, or both, of a new motor vehicle through an out-of-state dealer without disclosing in writing to the customer that the new vehicle would not be subject to chapter 19.118 RCW. This subsection also applies to leased vehicles. In addition, it is unlawful for any buyer's agent to fail to have a written agreement with the customer that: (a) Sets forth the terms of the parties' agreement; (b) discloses to the customer the total amount of any fees or other compensation being paid by the customer to the buyer's agent for the agent's services; and (c) further discloses whether the fee or any portion of the fee is refundable.

(14) Being a manufacturer, other than a motorcycle manufacturer governed by chapter 46.93 RCW, to:

(a) Coerce or attempt to coerce any vehicle dealer to order or accept delivery of any vehicle or vehicles, parts or accessories, or any other commodities which have not been voluntarily ordered by the vehicle dealer: PROVIDED, That recommendation, endorsement, exposition, persuasion, urging, or argument are not deemed to constitute coercion;

(b) Cancel or fail to renew the franchise or selling agreement of any vehicle dealer doing business in this state without fairly compensating the dealer at a fair going business value for his or her capital investment which shall include but not be limited to tools, equipment, and parts inventory possessed by the dealer on the day he

or she is notified of such cancellation or termination and which are still within the dealer's possession on the day the cancellation or termination is effective, if: (i) The capital investment has been entered into with reasonable and prudent business judgment for the purpose of fulfilling the franchise; and (ii) the cancellation or nonrenewal was not done in good faith. Good faith is defined as the duty of each party to any franchise to act in a fair and equitable manner towards each other, so as to guarantee one party freedom from coercion, intimidation, or threats of coercion or intimidation from the other party: PROVIDED, That recommendation, endorsement, exposition, persuasion, urging, or argument are not deemed to constitute a lack of good faith;

(c) Encourage, aid, abet, or teach a vehicle dealer to sell or lease vehicles through any false, deceptive, or misleading sales or financing practices including but not limited to those practices declared unlawful in this section;

(d) Coerce or attempt to coerce a vehicle dealer to engage in any practice forbidden in this section by either threats of actual cancellation or failure to renew the dealer's franchise agreement;

(e) Refuse to deliver any vehicle publicly advertised for immediate delivery to any duly licensed vehicle dealer having a franchise or contractual agreement for the retail sale or lease of new and unused vehicles sold or distributed by such manufacturer within sixty days after such dealer's order has been received in writing unless caused by inability to deliver because of shortage or curtailment of material, labor, transportation, or utility services, or by any labor or production difficulty, or by any cause beyond the reasonable control of the manufacturer;

(f) To provide under the terms of any warranty that a purchaser or lessee of any new or unused vehicle that has been sold or leased, distributed for sale or lease, or transferred into this state for resale or lease by the vehicle manufacturer may only make any warranty claim on any item included as an integral part of the vehicle against the manufacturer of that item.

Nothing in this section may be construed to impair the obligations of a contract or to prevent a manufacturer, distributor, representative, or any other person, whether or not licensed under this chapter, from requiring performance of a written contract entered into with any licensee hereunder, nor does the requirement of such performance constitute a violation of any of the provisions of

this section if any such contract or the terms thereof requiring performance, have been freely entered into and executed between the contracting parties. This paragraph and subsection (14)(b) of this section do not apply to new motor vehicle manufacturers governed by chapter 46.96 RCW.

(15) Unlawful transfer of an ownership interest in a motor vehicle as defined in RCW 19.116.050.

(16) To knowingly and intentionally engage in collusion with a registered owner of a vehicle to repossess and return or resell the vehicle to the registered owner in an attempt to avoid a suspended license impound under chapter 46.55 RCW. However, compliance with chapter 62A.9A RCW in repossessing, selling, leasing, or otherwise disposing of the vehicle, including providing redemption rights to the debtor, is not a violation of this section.

(17)(a) For a dealer to enter into a new motor vehicle sales contract without disclosing in writing to a buyer of the new motor vehicle, or to a dealer in the case of an unregistered motor vehicle, any known damage and repair to the new motor vehicle if the damage exceeds five percent of the manufacturer's suggested retail price as calculated at the dealer's authorized warranty rate for labor and parts, or one thousand dollars, whichever amount is greater. A manufacturer or new motor vehicle dealer is not required to disclose to a dealer or buyer that glass, tires, bumpers, or cosmetic parts of a new motor vehicle were damaged at any time if the damaged item has been replaced with original or comparable equipment. A replaced part is not part of the cumulative damage required to be disclosed under this subsection.

(b) A manufacturer is required to provide the same disclosure to a dealer of any known damage or repair as required in (a) of this subsection.

(c) If disclosure of any known damage or repair is not required under this section, a buyer may not revoke or rescind a sales contract due to the fact that the new motor vehicle was damaged and repaired before completion of the sale.

(d) As used in this section:

(i) "Cosmetic parts" means parts that are attached by and can be replaced in total through the use of screws, bolts, or other fasteners without the use of welding or thermal cutting, and includes windshields, bumpers, hoods, or trim panels.

(ii) "Manufacturer's suggested retail price" means the retail price of the new motor vehicle suggested by the manufacturer, and includes the retail delivered price suggested by the manufacturer for each accessory or item of optional equipment physically attached to the new motor vehicle at the time of delivery to the new motor vehicle dealer that is not included within the retail price suggested by the manufacturer for the new motor vehicle.

Sec. 508. RCW 46.70.270 and 1967 ex.s. c 74 s 25 are each amended to read as follows:

The provisions of this chapter shall be cumulative to existing laws: PROVIDED, That the violation of RCW 46.70.180 shall be construed as ((~~exclusively~~)) civil or administrative, and not penal in nature.

PART VI - MOTOR VEHICLE TRANSPORTERS

Sec. 601. RCW 46.76.065 and 1977 ex.s. c 254 s 1 are each amended to read as follows:

(1) The director may take any disciplinary action authorized under RCW 18.235.110 against any licensee or person required to be licensed under this chapter if the director either finds that the licensee or person has engaged in any unprofessional conduct described in RCW 18.235.130 or has reason to believe the licensee or person has committed, or is at the time committing, the following conduct ((~~shall be sufficient grounds pursuant to RCW 34.05.422 for the director or a designee to deny, suspend, or revoke the license of a motor vehicle transporter~~)):

((~~(1)~~)) (a) Using transporter plates for driveaway or towaway of any vehicle owned by such transporter;

((~~(2)~~)) (b) Knowingly, as that term is defined in RCW 9A.08.010(1)(b), having possession of a stolen vehicle or a vehicle with a defaced, missing, or obliterated manufacturer's identification serial number;

((~~(3)~~)) (c) Loaning transporter plates;

((~~(4)~~)) (d) Using transporter plates for any purpose other than as provided under RCW 46.76.010; or

((~~(5)~~)) (e) Violation of provisions of this chapter or of rules and regulations adopted relating to enforcement and proper operation of this chapter.

(2) Any monetary penalty imposed under this section may not exceed five hundred dollars per violation.

Sec. 602. RCW 46.76.080 and 1979 ex.s. c 136 s 96 are each amended to read as follows:

((~~The violation of any provision of this chapter is a traffic infraction.~~)) (1) Chapter 18.235 RCW governs unlicensed practice as a transporter, the issuance and denial of licenses, and the discipline of licensees and persons required to be licensed as a transporter under this chapter.

(2) A licensed transporter, or person required to be licensed as a transporter, who violates this chapter may be: (a) Prosecuted for a traffic infraction under chapter 46.63 RCW, or (b) subject to the civil penalties or disciplinary actions that may be imposed by the department under RCW 46.76.065.

(3) In addition to any other penalty imposed upon a violator of ((~~the provisions of~~)) this chapter, the director may confiscate any transporter license plates used in connection with such violation.

PART VII - HULK HAULERS AND SCRAP PROCESSORS

Sec. 701. RCW 46.79.070 and 1990 c 250 s 71 are each amended to read as follows:

(1) The director may ((~~by order pursuant to the provisions of chapter 34.05 RCW, deny, suspend, or revoke the license of any hulk hauler or scrap processor or, in lieu thereof or in addition thereto, may by order assess monetary penalties of a civil nature not to exceed five hundred dollars per violation, whenever the director finds~~)) take any disciplinary action authorized under RCW 18.235.110 against any applicant for or holder of a hulk hauler or scrap processor license or person required to be licensed under this chapter if the director finds that the person, applicant, or licensee has engaged in any unprofessional conduct described in RCW 18.235.130 or that the person, applicant, or licensee:

((~~(1)~~)) (a) Removed a vehicle or vehicle major component part from property without obtaining both the written permission of the property owner and documentation approved by the department for acquiring vehicles, junk vehicles, or major component parts thereof;

((~~(2)~~)) (b) Acquired, disposed of, or possessed a vehicle or major component part thereof when he or she knew that such vehicle or

part had been stolen or appropriated without the consent of the owner;

((~~(3)~~)) (c) Sold, bought, received, concealed, had in his or her possession, or disposed of a vehicle or major component part thereof having a missing, defaced, altered, or covered manufacturer's identification number, unless approved by a law enforcement officer;

((~~(4)~~)) (d) Committed forgery or made any material misrepresentation on any document relating to the acquisition, disposition, registration, titling, or licensing of a vehicle pursuant to this title ((~~46 RCW~~));

((~~(5)~~)) (e) Committed any dishonest act or omission which has caused loss or serious inconvenience as a result of the acquisition or disposition of a vehicle or any major component part thereof;

((~~(6)~~)) (f) Failed to comply with any of the provisions of this chapter or other applicable law relating to registration and certificates of title of vehicles and any other document releasing any interest in a vehicle;

((~~(7)~~)) (g) Been authorized to remove a particular vehicle or vehicles and failed to take all remnants and debris from those vehicles from that area unless requested not to do so by the person authorizing the removal;

((~~(8)~~)) (h) Removed parts from a vehicle at other than an approved location or removed or sold parts or vehicles beyond the scope authorized by this chapter or any rule adopted hereunder;

((~~(9)~~)) (i) Been adjudged guilty of a crime which directly relates to the business of a hulk hauler or scrap processor and the time elapsed since the adjudication is less than five years. For the purposes of this section "adjudged guilty" means, in addition to a final conviction in either a federal, state, or municipal court, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt regardless of whether the imposition of sentence is deferred or the penalty is suspended; or

((~~(10)~~)) (j) Been the holder of a license issued pursuant to this chapter which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of the suspension have not been fulfilled, or which license was assessed a civil penalty and the assessed amount has not been paid.

(2) Any monetary penalty imposed under this section may not exceed five hundred dollars per violation.

Sec. 702. RCW 46.79.120 and 1983 c 142 s 8 are each amended to read as follows:

(1) Chapter 18.235 RCW governs unlicensed practice as a hulk hauler or scrap processor, the issuance and denial of licenses, and the discipline of licensees and persons required to be licensed as a hulk hauler or scrap processor under this chapter.

(2) Any hulk hauler or scrap processor who engages in the business of hulk hauling or scrap processing without holding a current license issued by the department for authorization to do so, or, holding such a license, exceeds the authority granted by that license, is guilty of a gross misdemeanor and subject to disciplinary action that may be imposed by the director under RCW 46.79.070.

PART VIII - VEHICLE WRECKERS

Sec. 801. RCW 46.80.020 and 2003 c 53 s 253 are each amended to read as follows:

(1) It is unlawful for a person to engage in the business of wrecking vehicles without having first applied for and received a license.

(2)(a) Except as provided in (b) of this subsection, a person or firm engaged in the unlawful activity described in this section is guilty of a gross misdemeanor and subject to disciplinary action that may be imposed by the department under RCW 46.80.110, in addition to any other penalty imposed upon a violation of this section.

(b) A second or subsequent offense is a class C felony punishable according to chapter 9A.20 RCW.

Sec. 802. RCW 46.80.080 and 1999 c 278 s 2 are each amended to read as follows:

(1) Every vehicle wrecker shall maintain books or files in which the wrecker shall keep a record and a description of:

(a) Every vehicle wrecked, dismantled, disassembled, or substantially altered by the wrecker; and

(b) Every major component part acquired by the wrecker; together with a bill of sale signed by a seller whose identity has been verified and the name and address of the person, firm, or corporation from whom the wrecker purchased the vehicle or part. Major component parts other than cores shall be further identified by the vehicle identification number of the vehicle from which the part came.

(2) The record shall also contain the following data regarding the wrecked or acquired vehicle or vehicle that is the source of a major component part other than a core:

(a) The certificate of title number (if previously titled in this or any other state);

(b) Name of state where last registered;

(c) Number of the last license number plate issued;

(d) Name of vehicle;

(e) Motor or identification number and serial number of the vehicle;

(f) Date purchased;

(g) Disposition of the motor and chassis;

(h) Yard number assigned by the licensee to the vehicle or major component part, which shall also appear on the identified vehicle or part; and

(i) Such other information as the department may require.

(3) The records shall also contain a bill of sale signed by the seller for other minor component parts acquired by the licensee, identifying the seller by name, address, and date of sale.

(4) The records shall be maintained by the licensee at his or her established place of business for a period of three years from the date of acquisition.

(5) The record is subject to inspection at all times during regular business hours by members of the police department, sheriff's office, members of the Washington state patrol, or officers or employees of the department.

(6) A vehicle wrecker shall also maintain a similar record of all disabled vehicles that have been towed or transported to the vehicle wrecker's place of business or to other places designated by the owner of the vehicle or his or her representative. This record shall specify the name and description of the vehicle, name of owner, number of license plate, condition of the vehicle and place to which it was towed or transported.

(7) Failure to comply with this section is a gross misdemeanor <u>and subjects the vehicle wrecker to disciplinary action that may be imposed by the department under RCW 46.80.110</u>.

Sec. 803. RCW 46.80.110 and 1995 c 256 s 13 are each amended to read as follows:

(1) The director ((~~or a designee may, pursuant to the provisions of chapter 34.05 RCW, by order deny, suspend, or revoke the license of a vehicle wrecker, or assess a civil fine of up to five hundred dollars for each violation, if the director finds~~)) may take any disciplinary action authorized under RCW 18.235.110 against any applicant for or holder of a vehicle wrecker license or person required to be licensed under this chapter if the director finds that the person, applicant, or licensee has engaged in any unprofessional conduct described in RCW 18.235.130 or that the person, applicant, or licensee has:

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

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

(c) Sold, had in the wrecker's possession, or disposed of a vehicle or any part thereof when he or she knows that the vehicle or part has been stolen, or appropriated without the consent of the owner;

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

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

(f) Committed any dishonest act or omission that the director has reason to believe has caused loss or serious inconvenience as a result of a sale of a vehicle or part thereof;

(g) Failed to comply with any of the provisions of this ((~~chapter or with any of the rules adopted under it, or with any of the provisions of~~)) title ((~~46 RCW~~)) relating to registration and certificates of title of vehicles;

(h) Procured a license fraudulently or dishonestly((~~;~~

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

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

(2) In addition to actions by the department under this section, it is a gross misdemeanor to violate subsection (1)(a), (b), or (h) of this section.

(3) Any monetary penalty imposed under this section may not exceed five hundred dollars per violation.

Sec. 804. RCW 46.80.130 and 1995 c 256 s 15 are each amended to read as follows:

(1) It is unlawful for a vehicle wrecker to keep a vehicle or any integral part thereof in any place other than the established place of business, designated in the certificate issued by the department, without permission of the department.

(2) All premises containing vehicles or parts thereof shall be enclosed by a wall or fence of such height as to obscure the nature of the business carried on therein. To the extent reasonably necessary or permitted by the topography of the land, the department may establish specifications or standards for the fence or wall. The wall or fence shall be painted or stained a neutral shade that blends in with the surrounding premises, and the wall or fence must be kept in good repair. A living hedge of sufficient density to prevent a view of the confined area may be substituted for such a wall or fence. Any dead or dying portion of the hedge shall be replaced.

(3) Violation of subsection (1) of this section is a gross misdemeanor and subjects the vehicle wrecker to disciplinary action that may be imposed by the department under RCW 46.80.110.

Sec. 805. RCW 46.80.170 and 1995 c 256 s 18 are each amended to read as follows:

(1) Chapter 18.235 RCW governs unlicensed practice as a vehicle wrecker, the issuance and denial of licenses, and the discipline of licensees and persons required to be licensed as a vehicle wrecker under this chapter.

(2) Unless otherwise provided by law and in addition to a violator being subject to disciplinary action that may be imposed by the department under RCW 46.80.110, it is a misdemeanor for any

person to violate any of the provisions of this chapter or the rules adopted under this chapter.

Sec. 806. RCW 46.80.180 and 1995 c 256 s 19 are each amended to read as follows:

(1) If it appears to the director that an unlicensed person or licensee has engaged in an act or practice constituting a violation of this chapter, or a rule adopted or an order issued under this chapter, the director may, in addition to taking any disciplinary action under RCW 46.80.110 and pursuant to RCW 18.235.150, issue a temporary cease and desist order or a notice of intent to issue an order directing the person to cease and desist from continuing the act or practice. ((~~The director shall give the person reasonable notice of and opportunity for a hearing. The director may issue a temporary order pending a hearing. The temporary order remains in effect until ten days after the hearing is held and becomes final if the person to whom the notice is addressed does not request a hearing within fifteen days after receipt of the notice.~~))

(2) The director may assess a fine of up to one thousand dollars with the final order for each act or practice constituting a violation of this chapter by an unlicensed person.

Sec. 807. RCW 46.80.190 and 2003 c 53 s 254 are each amended to read as follows:

(1) The department of licensing or its authorized agent may examine or, pursuant to the authority under RCW 18.235.030, subpoena any persons, books, papers, records, data, vehicles, or vehicle parts bearing upon the investigation or proceeding under this chapter.

(2) The persons subpoenaed may be required to testify and produce any books, papers, records, data, vehicles, or vehicle parts that the director deems relevant or material to the inquiry.

(3) The director or an authorized agent may administer an oath to the person required to testify, and a person giving false testimony after the administration of the oath is guilty of perjury in the first degree under RCW 9A.72.020.

(4) A court of competent jurisdiction may, upon application by the director, issue to a person who fails to comply, an order to appear before the director or officer designated by the director, to produce documentary or other evidence touching the matter under investigation or in question.

PART IX - VESSEL DEALERS

Sec. 901. RCW 88.02.380 and 2013 c 291 s 29 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, and, in part, in order to prevent the future potential dereliction or abandonment of a vessel, a violation of this chapter and the rules adopted by the department is a class 2 civil infraction.

(2) A civil infraction issued under this chapter must be processed under chapter 7.80 RCW.

(3) After the subtraction of court costs and administrative collection fees, moneys collected under this section must be credited to the ticketing jurisdiction and used only for the support of the enforcement agency, department, division, or program that issued the violation.

(4) All law enforcement officers may enforce this chapter and the rules adopted by the department within their respective jurisdictions. A city, town, or county may contract with a fire protection district for enforcement of this chapter, and fire protection districts may engage in enforcement activities.

(5) In addition to the criminal and civil penalties provided for in this section, chapter 18.235 RCW governs unlicensed practice as a vessel dealer, the issuance and denial of vessel dealer licenses, and the discipline of licensees and persons required to be licensed as a vessel dealer under this chapter.

Sec. 902. RCW 88.02.740 and 2010 c 161 s 1036 are each amended to read as follows:

Any person engaging in vessel dealer activities without first obtaining a vessel dealer license is guilty of a gross misdemeanor and subject to disciplinary action that may be imposed by the director under RCW 88.02.750.

Sec. 903. RCW 88.02.750 and 2010 c 161 s 1035 are each amended to read as follows:

(1) ((~~Except as otherwise provided in this chapter,~~)) The director may ((~~by order deny, suspend, or revoke a vessel dealer license, or in lieu of or in addition to, may by order assess monetary penalties of a civil nature not to exceed one thousand~~

~~dollars per violation, if the director finds that the applicant or licensee:~~

~~(a)~~)) take any disciplinary action authorized under RCW 18.235.110 against an applicant for or holder of a vessel dealer license or person required to be licensed under this chapter if the director finds that the person, applicant, or licensee:

(a) Has engaged in any unprofessional conduct described under RCW 18.235.130; or

(b) Is applying for a dealer's license or has obtained a dealer's license for the purpose of evading excise taxes on vessels((~~;~~

~~(b) Has been adjudged guilty of a felony that directly relates to marine trade and the time elapsed since the adjudication is less than ten years. For purposes of this section, "adjudged guilty" means, in addition to a final conviction in court, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt regardless of whether the sentence is deferred or the penalty is suspended;~~

~~(c) Has failed to comply with the trust account requirements of this chapter;~~

~~(d) Has failed to transfer a certificate of title to a purchaser as required in this chapter;~~

~~(e) Has misrepresented the facts at the time of application for registration or renewal; or~~

~~(f) Has failed to comply with applicable provisions of this chapter or any rules adopted under it~~)).

(2) The director may deny a vessel dealer license under this chapter if the application is a subterfuge that conceals the real person in interest whose vessel dealer license has been denied, suspended, or revoked for cause under this chapter and (a) the terms have not been fulfilled or a civil penalty has not been paid or (b) the director finds that the application was not filed in good faith. This subsection does not prevent the department from taking an action against a current vessel dealer licensee.

(3) Any monetary penalty imposed under this section may not exceed one thousand dollars per violation.

PART X - VEHICLE DEALER FINGERPRINT BACKGROUND CHECKS

Sec. 1001. RCW 46.70.041 and 2001 c 272 s 3 are each amended to read as follows:

(1) Every application for a vehicle dealer license shall contain the following information to the extent it applies to the applicant:

(a) Proof as the department may require concerning the applicant's identity, including but not limited to his or her fingerprints, the honesty, truthfulness, and good reputation of the applicant for the license, or of the officers of a corporation making the application;

(b) The applicant's form and place of organization including if the applicant is a corporation, proof that the corporation is licensed to do business in this state;

(c) The qualification and business history of the applicant and any partner, officer, or director;

(d) The applicant's financial condition or history including a bank reference and whether the applicant or any partner, officer, or director has ever been adjudged bankrupt or has any unsatisfied judgment in any federal or state court;

(e) Whether the applicant has been adjudged guilty of a crime which directly relates to the business for which the license is sought and the time elapsed since the conviction is less than ten years, or has suffered any judgment within the preceding five years in any civil action involving fraud, misrepresentation, or conversion and in the case of a corporation or partnership, all directors, officers, or partners;

(f) A business telephone with a listing in the local directory;

(g) The name or names of new vehicles the vehicle dealer wishes to sell;

(h) The names and addresses of each manufacturer from whom the applicant has received a franchise;

(i) A certificate by a representative of the department, that the applicant's principal place of business and each subagency business location in the state of Washington meets the location requirements as required by this chapter. The certificate shall include proof of the applicant's ownership or lease of the real property where the applicant's principal place of business is established;

(j) A copy of a current service agreement with a manufacturer, or distributor for a foreign manufacturer, requiring the applicant, upon demand of any customer receiving a new vehicle warranty to perform or arrange for, within a reasonable distance of his or her established

place of business, the service repair and replacement work required of the manufacturer or distributor by such vehicle warranty. This requirement applies only to applicants seeking to sell, to exchange, to offer, to auction, to solicit, to advertise, or to broker new or current-model vehicles with factory or distributor warranties;

(k) The class of vehicles the vehicle dealer will be buying, selling, listing, exchanging, offering, brokering, leasing, auctioning, soliciting, or advertising, and which classification or classifications the dealer wishes to be designated as;

(l) Effective July 1, 2002, a certificate from the provider of each education program or test showing that the applicant has completed the education programs and passed the test required under RCW 46.70.079 if the applicant is a dealer subject to the education and test requirements;

(m) Any other information the department may reasonably require.

(2) If the applicant is a manufacturer the application shall contain the following information to the extent it is applicable to the applicant:

(a) The name and address of the principal place of business of the applicant and, if different, the name and address of the Washington state representative of the applicant;

(b) The name or names under which the applicant will do business in the state of Washington;

(c) Evidence that the applicant is authorized to do business in the state of Washington;

(d) The name or names of the vehicles that the licensee manufactures;

(e) The name or names and address or addresses of each and every distributor, factory branch, and factory representative;

(f) The name or names and address or addresses of resident employees or agents to provide service or repairs to vehicles located in the state of Washington only under the terms of any warranty attached to new or unused vehicles manufactured, unless such manufacturer requires warranty service to be performed by all of its dealers pursuant to a current service agreement on file with the department;

(g) Any other information the department may reasonably require.

<u>(3) Effective January 1, 2016, (a) any applicant for an original license under this chapter is required to have a fingerprint-based background check through the Washington state patrol criminal</u>

identification system and through the federal bureau of investigation; (b) the director may require all current licensees under this chapter to have a fingerprint-based background check through the Washington state patrol criminal identification system and through the federal bureau of investigation at the time of the first application for a renewal license after that date. The director may require all current licensees to submit with their renewal application proof as the department may require concerning the applicant's identity including, but not limited to, his or her fingerprints. The director may require that licensees have their background rechecked periodically under this subsection. The applicant must pay the current federal and state fees for fingerprint-based criminal history background checks.

--- END ---