

Filed

MAR 09 2009

OFFICE OF THE CODE REVISER
LEGISLATIVE BUILDING
OLYMPIA, WA 98504

SECRETARY OF STATE

PETITIONER:

IN THE MATTER OF THE PROPOSED
INITIATIVE TO THE PEOPLE
Relating to thirty dollar car tabs
Tim D. Eyman
PO Box 18250
Spokane, WA 99228

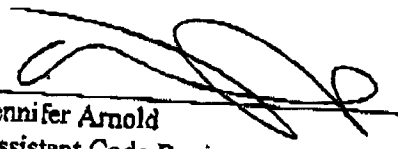
CERTIFICATE OF REVIEW (pursuant to RCW 29A.72.020)

I hereby certify that petitioner's proposal (I-2222.1/09) was received in the office of the Code Reviser on March 6, 2009, that I have reviewed the proposal, and that any recommendations, if any, have been communicated to the petitioner.

Dated March 9, 2009

K. KYLE THIESSEN
Code Reviser

By



Jennifer Arnold
Assistant Code Reviser

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Initiative Measure No. 1049

Filed

MAR 09 2009

SECRETARY OF STATE

Car Tabs: \$30 plus whatever amount voters approve

AN ACT Relating to limiting charges relating to motor vehicles; amending RCW 46.16.070, 46.01.140, 82.08.020, 46.16.237, 46.16.270, 46.70.180, 81.100.060, 81.100.060, 36.120.050, 82.44.065, and 81.104.160; reenacting and amending RCW 46.16.0621 and 46.16.233; adding a new section to chapter 82.44 RCW; adding a new section to chapter 81.112 RCW; creating new sections; repealing RCW 46.17.010, 46.17.020, and 82.44.035; providing an effective date; and providing contingent effective dates.

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

POLICIES AND PURPOSES

NEW SECTION. **Sec. 1.** Voters have repeatedly approved \$30 tabs, yet politicians are continually ignoring the voters' repeated, unambiguous mandate by imposing higher and higher vehicle taxes and fees without a vote of the people, by calculating vehicle taxes dishonestly and inaccurately to extract artificially high amounts of revenue from taxpayers, and by ignoring the provisions of voter-approved initiatives. It's not fair and it must stop. As long as taxpayers must pay a huge general sales tax to buy a vehicle (meaning state and local governments receive huge windfalls of sales tax revenue from these transactions) and pay a huge gas tax to use a vehicle, the people find that the government is not entitled to a "third bite of the apple," taxes and fees above a reasonable annual amount to simply own a vehicle. Without this follow-up measure, "tab creep" will continue until vehicle charges are once again obscenely expensive, as they were prior to Initiative 695. This measure and each of its provisions limit government-imposed charges relating to motor vehicles. This measure would set combined motor vehicle

1 registration charges at \$30 per year (a \$25 license tab fee plus a \$5
2 filing fee), repeal and reduce taxes and fees not approved by voters,
3 calculate vehicle taxes based on purchase price, and retire certain
4 bonds. Politicians promised "\$30 license tabs are here to stay."
5 Politicians should keep their promises. Voters have repeatedly
6 approved \$30 tabs. Politicians must learn to listen to the people.

7
8 **LIMITING CHARGES RELATING TO MOTOR VEHICLES**
9 **BY SETTING LICENSE TAB FEES AT \$25 PER YEAR**

10
11 **Sec. 2.** RCW 46.16.0621 and 2003 c 1 s 2 and 2002 c 352 s 7 are
12 each reenacted and amended to read as follows:

13 1) (~~License tab fees are required to be \$30 per year for motor~~
14 ~~vehicles, regardless of year, value, make, or model~~) License tab
15 fees are set at \$25 per year for motor vehicles, regardless of year,
16 value, make, or model, subject to the requirements of this section.

17 2) (~~For the purposes of this section, "license tab fees" are~~
18 ~~defined as the general fees paid annually for licensing motor~~
19 ~~vehicles and trailers as defined in RCW 46.04.620 and 46.04.623,~~
20 ~~including cars, sport utility vehicles, motorcycles, and motor homes.~~
21 ~~Trailers licensed under RCW 46.16.068 or 46.16.085 and campers~~
22 ~~licensed under RCW 46.16.505 are not required to pay license tab fees~~
23 ~~under this section~~) For the purposes of this section, "license tab
24 fees" are defined as the general fees paid annually for licensing
25 motor vehicles, including but not limited to cars, sport utility
26 vehicles, motorcycles, and motor homes. This fee shall be paid and
27 collected annually and is due at the time of initial and renewal
28 vehicle registration. Trailers licensed under RCW 46.16.068,
29 46.16.085, 46.04.620, or 46.04.623 and campers licensed under RCW
30 46.16.505 are not required to pay license tab fees under this
31 section.

32 3) In any jurisdiction which imposes a nonvoter-approved vehicle
33 fee after January 1, 2009, such as a transportation benefit district
34 under RCW 36.73.065 or 82.80.140, license tab fees on motor vehicles

1 in that jurisdiction shall be set at \$25 minus the amount or amounts
2 of any nonvoter-approved vehicle fee or fees.

3
4 **Sec. 3.** RCW 46.16.070 and 2005 c 314 s 204 are each amended to
5 read as follows:

6 (1) In lieu of all other vehicle licensing fees, unless
7 specifically exempt, and in addition to the mileage fees prescribed
8 for buses and stages in RCW 46.16.125, there shall be paid and
9 collected annually for each truck, motor truck, truck tractor, road
10 tractor, tractor, bus, auto stage, or for hire vehicle with seating
11 capacity of more than six, based upon the declared combined gross
12 weight or declared gross weight under chapter 46.44 RCW, the
13 following licensing fees by such gross weight:

15	WEIGHT	SCHEDULE A	SCHEDULE B
16	((4,000 lbs.))	\$ ((40.00))	\$ ((40.00))
17	<u>4,000 lbs.</u>	<u>25.00</u>	<u>25.00</u>
18	((6,000 lbs.))	\$ ((50.00))	\$ ((50.00))
19	<u>6,000 lbs.</u>	<u>25.00</u>	<u>25.00</u>
20	((8,000 lbs.))	\$ ((60.00))	\$ ((60.00))
21	<u>8,000 lbs.</u>	<u>25.00</u>	<u>25.00</u>
22	((10,000 lbs.))	\$ ((62.00))	\$ ((62.00))
23	<u>10,000 lbs.</u>	<u>25.00</u>	<u>25.00</u>
24	12,000 lbs.	79.00	79.00
25	14,000 lbs.	90.00	90.00
26	16,000 lbs.	102.00	102.00
27	18,000 lbs.	154.00	154.00
28	20,000 lbs.	171.00	171.00
29	22,000 lbs.	185.00	185.00
30	24,000 lbs.	200.00	200.00
31	26,000 lbs.	211.00	211.00
32	28,000 lbs.	249.00	249.00
33	30,000 lbs.	287.00	287.00
34	32,000 lbs.	346.00	346.00
35	34,000 lbs.	368.00	368.00
36	36,000 lbs.	399.00	399.00
37	38,000 lbs.	438.00	438.00
38	40,000 lbs.	501.00	501.00
39	42,000 lbs.	521.00	611.00
40	44,000 lbs.	532.00	622.00
41	46,000 lbs.	572.00	662.00
42	48,000 lbs.	596.00	686.00
43	50,000 lbs.	647.00	737.00

1	52,000 lbs.	680.00	770.00
2	54,000 lbs.	734.00	824.00
3	56,000 lbs.	775.00	865.00
4	58,000 lbs.	806.00	896.00
5	60,000 lbs.	859.00	949.00
6	62,000 lbs.	921.00	1011.00
7	64,000 lbs.	941.00	1031.00
8	66,000 lbs.	1048.00	1138.00
9	68,000 lbs.	1093.00	1183.00
10	70,000 lbs.	1177.00	1267.00
11	72,000 lbs.	1259.00	1349.00
12	74,000 lbs.	1368.00	1458.00
13	76,000 lbs.	1478.00	1568.00
14	78,000 lbs.	1614.00	1704.00
15	80,000 lbs.	1742.00	1832.00
16	82,000 lbs.	1863.00	1953.00
17	84,000 lbs.	1983.00	2073.00
18	86,000 lbs.	2104.00	2194.00
19	88,000 lbs.	2225.00	2315.00
20	90,000 lbs.	2346.00	2436.00
21	92,000 lbs.	2466.00	2556.00
22	94,000 lbs.	2587.00	2677.00
23	96,000 lbs.	2708.00	2798.00
24	98,000 lbs.	2829.00	2919.00
25	100,000 lbs.	2949.00	3039.00
26	102,000 lbs.	3070.00	3160.00
27	104,000 lbs.	3191.00	3281.00
28	105,500 lbs.	3312.00	3402.00

Schedule A applies to vehicles either used exclusively for hauling logs or that do not tow trailers. Schedule B applies to vehicles that tow trailers and are not covered under Schedule A.

Every truck, motor truck, truck tractor, and tractor exceeding ~~((6,000))~~ 10,000 pounds empty scale weight registered under chapter 46.16, 46.87, or 46.88 RCW shall be licensed for not less than one hundred fifty percent of its empty weight unless the amount would be in excess of the legal limits prescribed for such a vehicle in RCW 46.44.041 or 46.44.042, in which event the vehicle shall be licensed for the maximum weight authorized for such a vehicle or unless the vehicle is used only for the purpose of transporting any well drilling machine, air compressor, rock crusher, conveyor, hoist, donkey engine, cook house, tool house, bunk house, or similar machine or structure attached to or made a part of such vehicle.

The following provisions apply when increasing gross or combined gross weight for a vehicle licensed under this section:

(a) The new license fee will be one-twelfth of the fee listed above for the new gross weight, multiplied by the number of months remaining in the period for which licensing fees have been paid, including the month in which the new gross weight is effective.

(b) Upon surrender of the current certificate of registration or cab card, the new licensing fees due shall be reduced by the amount of the licensing fees previously paid for the same period for which new fees are being charged.

(2) The proceeds from the fees collected under subsection (1) of this section shall be distributed in accordance with RCW 46.68.035.

(3) In lieu of the gross weight fee under subsection (1) of this section, farm vehicles may be licensed upon payment of the fee in effect under subsection (1) of this section on May 1, 2005. In order to qualify for the reduced fee under this subsection, the farm vehicle must be exempt from property taxes in accordance with RCW 84.36.630. The applicant must submit copies of the forms required under RCW 84.36.630. The application for the reduced fee under this subsection shall require the applicant to attest that the vehicle shall be used primarily for farming purposes. The department shall provide licensing agents and subagents with a schedule of the appropriate licensing fees for farm vehicles.

**LIMITING CHARGES RELATING TO MOTOR VEHICLES
BY SETTING FILING FEES AT \$5 PER YEAR**

NEW SECTION. **Sec. 4.** RCW 46.01.140 and 2005 c 343 s 1 are each amended to read as follows:

1) The county auditor, if appointed by the director of licensing shall carry out the provisions of this title relating to the licensing of vehicles and the issuance of vehicle license number plates under the direction and supervision of the director and may with the approval of the director appoint assistants as special deputies and recommend subagents to accept applications and collect fees for vehicle licenses and transfers and to deliver vehicle license number plates.

(2) A county auditor appointed by the director may request that the director appoint subagencies within the county.

(a) Upon authorization of the director, the auditor shall use an open competitive process including, but not limited to, a written business proposal and oral interview to determine the qualifications of all interested applicants.

(b) A subagent may recommend a successor who is either the subagent's sibling, spouse, or child, or a subagency employee, as long as the recommended successor participates in the open, competitive process used to select an applicant. In making successor recommendation and appointment determinations, the following provisions apply:

(i) If a subagency is held by a partnership or corporate entity, the nomination must be submitted on behalf of, and agreed to by, all partners or corporate officers.

(ii) No subagent may receive any direct or indirect compensation or remuneration from any party or entity in recognition of a successor nomination. A subagent may not receive any financial benefit from the transfer or termination of an appointment.

(iii) (a) and (b) of this subsection are intended to assist in the efficient transfer of appointments in order to minimize public inconvenience. They do not create a proprietary or property interest in the appointment.

(c) The auditor shall submit all proposals to the director, and shall recommend the appointment of one or more subagents who have applied through the open competitive process. The auditor shall include in his or her

recommendation to the director, not only the name of the successor who is a relative or employee, if applicable and if otherwise qualified, but also the name of one other applicant who is qualified and was chosen through the open competitive process. The director has final appointment authority.

(3) (a) A county auditor who is appointed as an agent by the department shall enter into a standard contract provided by the director, developed with the advice of the title and registration advisory committee.

(b) A subagent appointed under subsection (2) of this section shall enter into a standard contract with the county auditor, developed with the advice of the title and registration advisory committee. The director shall provide the standard contract to county auditors.

(c) The contracts provided for in (a) and (b) of this subsection must contain at a minimum provisions that:

(i) Describe the responsibilities, and where applicable, the liability, of each party relating to the service expectations and levels, equipment to be supplied by the department, and equipment maintenance;

(ii) Require the specific type of insurance or bonds so that the state is protected against any loss of collected motor vehicle tax revenues or loss of equipment;

(iii) Specify the amount of training that will be provided by the state, the county auditor, or subagents;

(iv) Describe allowable costs that may be charged to vehicle licensing activities as provided for in (d) of this subsection;

(v) Describe the causes and procedures for termination of the contract, which may include mediation and binding arbitration.

(d) The department shall develop procedures that will standardize and prescribe allowable costs that may be assigned to vehicle licensing and vessel registration and title activities performed by county auditors.

(e) The contracts may include any provision that the director deems necessary to ensure acceptable service and the full collection of vehicle and vessel tax revenues.

(f) The director may waive any provisions of the contract deemed necessary in order to ensure that readily accessible service is provided to the citizens of the state.

(4) (a) At any time any application is made to the director, the county auditor, or other agent pursuant to any law dealing with licenses, registration, or the right to operate any vehicle or vessel upon the public

highways or waters of this state, excluding applicants already paying such fee under RCW 46.16.070 or 46.16.085, the applicant shall pay to the director, county auditor, or other agent a fee of (~~three~~) five dollars for each application in addition to any other fees required by law.

(b) Counties that do not cover the expenses of vehicle licensing and vessel registration and title activities may submit to the department a request for cost-coverage moneys. The request must be submitted on a form developed by the department. The department shall develop procedures to verify whether a request is reasonable. Payment shall be made on requests found to be allowable from the licensing services account.

(c) Applicants for certificates of ownership, including applicants paying fees under RCW 46.16.070 or 46.16.085, shall pay to the director, county auditor, or other agent a fee of four dollars in addition to any other fees required by law.

(d) The fees under (a) and (c) of this subsection, if paid to the county auditor as agent of the director, or if paid to a subagent of the county auditor, shall be paid to the county treasurer in the same manner as other fees collected by the county auditor and credited to the county current expense fund. If the fee is paid to another agent of the director, the fee shall be used by the agent to defray his or her expenses in handling the application.

(e) Applicants required to pay the (~~three-dollar~~) five-dollar fee established under (a) of this subsection, must (~~pay an additional~~) have seventy-five cents (~~(, which must be collected and)~~) of that fee remitted to the state treasurer and distributed as follows:

(i) Fifty cents must be deposited into the department of licensing services account of the motor vehicle fund and must be used for agent and subagent support, which is to include but not be limited to the replacement of department-owned equipment in the possession of agents and subagents.

(ii) Twenty-five cents must be deposited into the license plate technology account created under RCW 46.16.685.

(5) A subagent shall collect a service fee of (a) ten dollars for changes in a certificate of ownership, with or without registration renewal, or verification of record and preparation of an affidavit of lost title other than at the time of the title application or transfer and (b) four dollars for registration renewal only, issuing a transit permit, or any other service under this section.

(6) If the fee is collected by the state patrol as agent for the director, the fee so collected shall be certified to the state treasurer and deposited to the credit of the state patrol highway account. If the fee is collected by the department of transportation as agent for the director, the fee shall be certified to the state treasurer and deposited to the credit of the motor vehicle fund. All such fees collected by the director or branches of his office shall be certified to the state treasurer and deposited to the credit of the highway safety fund.

(7) Any county revenues that exceed the cost of providing vehicle licensing and vessel registration and title activities in a county, calculated in accordance with the procedures in subsection (3)(d) of this section, shall be expended as determined by the county legislative authority during the process established by law for adoption of county budgets.

(8) The director may adopt rules to implement this section.

LIMITING CHARGES RELATING TO MOTOR VEHICLES

**BY REPEALING VEHICLE FEES THAT EXCEED THE \$30 COMBINED REGISTRATION FEE
UNLESS THE FEES ARE APPROVED BY VOTERS AT AN ELECTION**

NEW SECTION. **Sec. 5.** The following acts or parts of acts are each repealed:

(1) RCW 46.17.010 (Vehicle weight fee--Motor vehicles, except motor homes) and 2006 c 337 s 9 & 2005 c 314 s 201; and

(2) RCW 46.17.020 (Vehicle weight fee--Motor homes) and 2005 c 314 s 202.

LIMITING CHARGES RELATING TO MOTOR VEHICLES

**BY REPEALING VEHICLE TAXES THAT EXCEED THE \$30 COMBINED REGISTRATION FEE
UNLESS THE TAXES ARE APPROVED BY VOTERS AT AN ELECTION**

Sec. 6. RCW 82.08.020 and 2006 c 1 s 3 are each amended to read as follows:

(1) There is levied and there shall be collected a tax on each retail sale in this state equal to six and five-tenths percent of the selling price.

(2) There is levied and there shall be collected an additional tax on each retail car rental, regardless of whether the vehicle is licensed in

this state, equal to five and nine-tenths percent of the selling price. The revenue collected under this subsection shall be deposited in the multimodal transportation account created in RCW 47.66.070.

~~(3) ((Beginning July 1, 2003, there is levied and collected an additional tax of three tenths of one percent of the selling price on each retail sale of a motor vehicle in this state, other than retail car rentals taxed under subsection (2) of this section. The revenue collected under this subsection shall be deposited in the multimodal transportation account created in RCW 47.66.070.~~

~~(4) For purposes of subsection (3) of this section, "motor vehicle" has the meaning provided in RCW 46.04.320, but does not include farm tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181, off-road and nonhighway vehicles as defined in RCW 46.09.020, and snowmobiles as defined in RCW 46.10.010.~~

(5)) Beginning on December 8, 2005, 0.16 percent of the taxes collected under subsection (1) of this section shall be dedicated to funding comprehensive performance audits required under RCW 43.09.470. The revenue identified in this subsection shall be deposited in the performance audits of government account created in RCW 43.09.475.

((6)) (4) The taxes imposed under this chapter shall apply to successive retail sales of the same property.

((7)) (5) The rates provided in this section apply to taxes imposed under chapter 82.12 RCW as provided in RCW 82.12.020.

LIMITING CHARGES RELATING TO MOTOR VEHICLES

BY REPEALING VEHICLE FEE INCREASES THAT EXCEED THE \$30 COMBINED REGISTRATION FEE UNLESS THE FEE INCREASES ARE APPROVED BY VOTERS AT AN ELECTION

Sec. 7. RCW 46.16.233 and 2003 c 361 s 501 and 2003 c 196 s 401 are each reenacted and amended to read as follows:

(1) Except for those license plates issued under RCW 46.16.305(1) before January 1, 1987, under RCW 46.16.305(3), and to commercial vehicles with a gross weight in excess of twenty-six thousand pounds, effective with vehicle registrations due or to become due on January 1, 2001, the appearance of the background of all vehicle license plates may vary in color and design but must be legible and clearly identifiable as a Washington state license plate, as designated by the department.

Additionally, to ensure maximum legibility and reflectivity, the department shall periodically provide for the replacement of license plates, except for commercial vehicles with a gross weight in excess of twenty-six thousand pounds. Frequency of replacement shall be established in accordance with empirical studies documenting the longevity of the reflective materials used to make license plates.

(2) Special license plate series approved by the special license plate review board created under RCW 46.16.705 and enacted by the legislature may display a symbol or artwork approved by the special license plate review board.

(3) By November 1, 2003, in providing for the periodic replacement of license plates, the department shall offer to vehicle owners the option of retaining their current license plate numbers. The department shall charge a retention fee of (~~twenty dollars~~) fifty cents if this option is exercised. Revenue generated from the retention fee must be deposited into the multimodal transportation account.

Sec. 8. RCW 46.16.237 and 2005 c 314 s 301 are each amended to read as follows:

All vehicle license number plates issued after January 1, 1968, or such earlier date as the director may prescribe with respect to plates issued in any county, shall be treated with fully reflectorized materials designed to increase the visibility and legibility of such plates at night.

In addition to all other fees prescribed by law, there shall be paid and collected for each vehicle license number plate treated with such materials, the sum of (~~two dollars~~) fifty cents and for each set of two plates, the sum of (~~four~~) one dollar(~~s~~). However, one plate is available only to those vehicles that by law require only one plate. Such fees shall be deposited in the motor vehicle fund.

Sec. 9. RCW 46.16.270 and 2005 c 314 s 302 are each amended to read as follows:

The total replacement plate fee shall be deposited in the motor vehicle fund.

Upon the loss, defacement, or destruction of one or both of the vehicle license number plates issued for any vehicle where more than one plate was originally issued or where one or both have become so illegible

or in such a condition as to be difficult to distinguish, or upon the owner's option, the owner of the vehicle shall make application for new vehicle license number plates upon a form furnished by the director. The application shall be filed with the director or the director's authorized agent, accompanied by the certificate of license registration of the vehicle and a fee in the amount of (~~ten dollars~~) fifty cents per plate, whereupon the director, or the director's authorized agent, shall issue new vehicle license number plates to the applicant. It shall be accompanied by a fee of two dollars for a new motorcycle license number plate. In the event the director has issued license period tabs or a windshield emblem instead of vehicle license number plates, and upon the loss, defacement, or destruction of the tabs or windshield emblem, application shall be made on a form provided by the director and in the same manner as above described, and shall be accompanied by a fee of one dollar for each pair of tabs or for each windshield emblem, whereupon the director shall issue to the applicant a duplicate pair of tabs, year tabs, and when necessary month tabs or a windshield emblem to replace those lost, defaced, or destroyed. For vehicles owned, rented, or leased by the state of Washington or by any county, city, town, school district, or other political subdivision of the state of Washington or United States government, or owned or leased by the governing body of an Indian tribe as defined in RCW 46.16.020, a fee shall be charged for replacement of a vehicle license number plate only to the extent required by the provisions of RCW 46.16.020, 46.16.237, and 46.01.140. For vehicles owned, rented, or leased by foreign countries or international bodies to which the United States government is a signatory by treaty, the payment of any fee for the replacement of a vehicle license number plate shall not be required.

Sec. 10. RCW 46.70.180 and 2007 c 155 s 2 are each amended to read as follows:

Each of the following acts or practices is unlawful:

(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) 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. However, an amount not to exceed (~~fifty~~) five 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 documentary service fee is not represented to the purchaser or lessee as a fee or charge 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 (~~(fifty)~~) five 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 ownership has been branded for any reason, including, but not limited to, status as a rebuilt vehicle as provided in RCW 46.12.050 and 46.12.075; 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

