



Law Enforcement

2013 LEGISLATIVE UPDATE

Digest

Law enforcement officers: Thank you for your service, protection and sacrifice.

2013 WASHINGTON LEGISLATIVE UPDATE

LED INTRODUCTORY EDITORIAL NOTE: In prior years we have included the legislative update over the course of two or more LED editions, generally including legislation as it is passed. This year we have included all of the legislation in this single stand alone LED edition, similar to last year's 2012 Subject Matter Index. We are still including an Index (located at page 33) to assist readers in locating legislation of particular interest.

Note that unless a different effective date is specified in the legislation (which will be shown with bolding in this update), acts adopted during the 2013 regular session take effect on July 28, 2013 (90 days after the end of the regular session), and acts adopted during the second special session take effect on September 28, 2013 (90 days after the end of the second special session). (Nothing was adopted during the first special session.) For some acts, different sections have different effective dates within the same act. We will generally indicate the effective date(s) applicable to the sections that we believe are most critical to law enforcement officers and their agencies.

Consistent with our past practice, our legislative updates will for the most part not digest legislation in the subject areas of sentencing, consumer protection, retirement, collective bargaining, civil service, tax, budget, and workers' compensation.

Text of each of the 2013 Washington acts and of their bill reports is available on the Internet at [<http://apps.leg.wa.gov/billinfo/>]. Use the 4-digit bill number for access to the act and bill reports.

We will include some RCW references in our entries, but where new sections or chapters are created by the legislation, the State Code Reviser must assign the appropriate code numbers. Codification by the Code Reviser likely will not be completed until early fall of this year.

We once again want to thank the staff of the Washington Association of Prosecuting Attorneys (WAPA) and the Washington State Patrol for assistance in our compiling of acts of interest to Washington law enforcement.

We remind our readers that any legal interpretations that we express in the LED regarding either legislation or court decisions: (1) do not constitute legal advice, (2) express only the views of the editor, and (3) do not necessarily reflect the views of the Attorney General's Office or of the Criminal Justice Training Commission. As always, we urge law enforcement agencies to consult their own legal advisors and local prosecutors for legal guidance.

ACTS PASSED DURING THE 2013 REGULAR SESSION

NOTICES REGARDING HOMELESS JUVENILES AND RUNAWAY CHILDREN

Chapter 4 (SB 5147)

Effective date: July 28, 2013

The Final Bill Report provides the following summary:

Licensed overnight youth shelters or licensed organizations whose stated purpose is to provide services to homeless or runaway youth and their families must comply with the following notice requirements when providing services to a youth known to be away from home without permission:

- Within 72 hours, and preferably within 24 hours, shelter or organization staff must notify the youth's parents of the whereabouts of the youth, a description of the youth's physical and emotional condition, and the circumstances surrounding the youth's contact with the shelter or organization.
- If there are compelling reasons not to notify the parent, including but not limited to the possibility that the minor will be subjected to child abuse or neglect, the shelter or organization must instead notify DSHS.
- After learning that the minor is a runaway, the shelter or organization staff must consult the information made publicly available by the Washington State Patrol (WSP) at least once every eight hours.
- If the WSP indicates that the youth is reported as missing, the shelter or organization staff must immediately notify DSHS of its contact with the youth.

No person, unlicensed youth shelter, or runaway and homeless youth program is prohibited from immediately reporting the identity or location of any minor who is away from home without parental permission.

WELCOME HOME VIETNAM VETERANS DAY

Chapter 5 (HB 1319)

Effective date: July 28, 2013

Recognizes March 30 as "Welcome Home Vietnam Veterans Day," and requires public entities to display the POW/MIA flag, along with the United States flag and the Washington state flag. Welcome Home Vietnam Veterans Day is not a legal holiday.

ESTABLISHING AN ENHANCED PENALTY FOR THE USE OF AN INTERNET ADVERTISEMENT TO FACILITATE THE COMMISSION OF A SEX-TRAFFICKING CRIME

Chapter 9 (SB 5488)

Effective date: July 28, 2013

Adds a new section to chapter 9.68A RCW which provides that in addition to other penalties, a person convicted of commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, or promoting travel for commercial sexual abuse of a minor "shall be assessed an additional fee of five thousand dollars per offense when the court finds that an internet advertisement in which the victim of the crime was described or depicted was instrumental in facilitating the commission of the crime." The new section provides a definition of "internet advertisement."

TRAINING SCHOOL EMPLOYEES IN THE PREVENTION OF SEX ABUSE

Chapter 10 (ESSB 5563)

Effective date: July 28, 2013

The Final Bill Report provides the following summary:

To receive initial certification as a teacher in this state after August 31, 1991, an applicant must successfully complete a course on issues of abuse. The content of the course must discuss the identification of physical abuse, emotional abuse, sexual abuse, commercial sexual abuse of a minor, sexual exploitation of a minor, and substance abuse;

information on the impact of abuse on the behavior and learning abilities of students; discussion of the responsibilities of a teacher to report abuse or provide assistance to students who are the victims of abuse; and methods for teaching students about abuse of all types and their prevention.

The Washington Coalition of Sexual Assault Programs, in consultation with a number of other organizations and entities must, by June 1, 2014, update existing educational materials made available throughout the state to inform parents and other interested community members about how to prevent children from being recruited into sex trafficking, among other issues.

Certificated and classified school employees must receive training regarding their reporting obligations for student physical abuse or sexual misconduct victimization in their orientation training and then every three years thereafter. The training required may be incorporated within existing training programs and related resources.

STATUTE OF LIMITATIONS FOR SEXUAL ABUSE AGAINST A CHILD

Chapter 17 (SHB 1352)

Effective date: July 28, 2013

Amends the statute of limitations for certain crimes relating to sexual abuse of minors in RCW 9A.04.080.

The Substitute House Bill report provides the following summary:

The following offenses may be prosecuted up to the victim's thirtieth birthday, if the victim was under 18 years old when the offense was committed:

- Rape in the first or second degree (RCW 9A.44.040 and 9A.40.050);
- Rape of a Child in the first or second degrees (RCW 9A.44.073 and 9A.44.076);
- Child Molestation in the first, second, or third degrees (RCW 9A.44.083, 9A.44.086, 9A.44.089);
- Indecent Liberties when the other person is incapable of consent by reason of being mentally defective, mentally incapacitated, or physically helpless (RCW 9A.44.100 (1)(b));
- Incest (RCW 9A.64.020); or
- Sexual Exploitation of a Minor (RCW 9.68A.040).

If the victim was over 18 years old, Rape in the first or second degrees may be prosecuted up to 10 years after the act, if the offense was reported within one year, or up to three years after the act, if the offense was not reported within one year.

All other sex offenses may be prosecuted up to three years from the date of the act.

The period of limitations for any sex offense may run from the date of the offense or one year from the date by which the identity of the suspect is established by DNA or by photograph.

LED EDITORIAL NOTE: Under Washington appellate court interpretation of constitutional *ex post facto* protection, an enactment expanding the limitations period for prosecuting certain classes of crimes applies to crimes of such classes for which the prior limitations period had not yet expired as of the effective date of the amendment, but not those crimes for which the prior limitations period had expired as of that effective date. See State v. Hodgson, 44 Wn. App. 592 (1986).

CHANGING THE CRIME OF RIOT TO THE CRIME OF CRIMINAL MISCHIEF

Chapter 20 (SSB 5021)

Effective date: January 1, 2014

Amends RCW 9A.84.010 by changing "riot" to "criminal mischief."

PROCLAMATIONS OF A STATE OF EMERGENCY

Chapter 21 (SB 5025)

Effective date: July 28, 2013

Amends RCW 43.06.210 to provide that a proclamation of a state of emergency is effective upon the Governor's signature.

INCORPORATING MOTORCYCLES INTO CERTAIN TRANSPORTATION PLANNING

Chapter 26 (SB 5142)

Effective date: July 28, 2013

The Final Bill Report provides the following summary:

Providing reduced parking charges and preferential parking for motorcycles is added to the list of measures a major employer may choose to include in their [commute trip reduction] CTR program.

Motorcycles are added to the statutory list of vehicles for which [Washington State Department of Transportation] is authorized to reserve certain highway lanes or ramps.

INCREASING THE AUTHORITY OF SUPERIOR COURT COMMISSIONERS TO HEAR AND DETERMINE CERTAIN MATTERS

Chapter 27 (SSB 5165)

Effective date: July 28, 2013

Increases the authority of superior court commissioners (1) under RCW 71.05.137 and 71.34.315 to hear certain mental health matters, and (2) under RCW 2.24.010(2) to:

[A]uthorize and issue search warrants and orders to intercept, monitor, or record wired or wireless telecommunications or for the installation of electronic taps or other devices to include, but not be limited to, vehicle global positioning system or other mobile tracking devices with all the powers conferred upon the judge of the superior court in such matters.

MAKING TECHNICAL CORRECTIONS AND UPDATING LICENSING AND ENFORCEMENT PROVISIONS OF THE CONSUMER LOAN ACT

Chapter 29 (SB 5207)

Effective date: July 28, 2013

RCW 31.04.175 currently makes violations of chapter 31.04 RCW a gross misdemeanor if no other penalty is expressly listed. This act expands the people to whom the chapter applies and turns some of the exceptions into affirmative defenses.

THE DEPARTMENT OF FINANCIAL INSTITUTIONS' REGULATION OF MORTGAGE BROKERS AND CLARIFYING THE DEPARTMENT'S EXISTING REGULATORY AUTHORITY REGARDING RESIDENTIAL MORTGAGE LOAN MODIFICATION SERVICES

Chapter 30 (SSB 5210)

Effective date: July 28, 2013

RCW 19.146.110 currently makes any violation of chapter 19.146 RCW, other than a violation of RCW 19.146.050, a gross misdemeanor. This act extends the chapter to mortgage loan modification service providers.

CONSUMER PROTECTION FOR TOW TRUCK SERVICES

Chapter 37 (ESHB 1625)

Effective date: July 28, 2013

The Engrossed Substitute House Bill Report provides the following Brief Summary:

- Sets a cap on the rates and fees that tow truck operators may charge for certain towing operations, storage of vehicles, and after-hours releases.

- Provides that certain local limits, if valid under existing law, remain enforceable.

TRAFFIC SCHOOL FEES

Chapter 41 (HB 1790)

Effective date: July 28, 2013

Adds a new subsection to RCW 46.83.070 which clarifies that a city, town, or county that establishes a traffic school charging a fee in excess of their costs may use the excess funds only for the statutorily authorized purposes.

INTRODUCTION OF CONTRABAND INTO OR POSSESSION OF CONTRABAND IN A SECURE FACILITY

Chapter 43 (SHB 1836)

Effective date: July 28, 2013

Expands the crimes of introducing contraband in the first, second and third degree (RCW 9A.76.140, .150, and .160) to cover secure facilities under chapter 71.09 RCW (Department of Social and Health Services facilities housing sexually violent predators).

PROHIBITING A PERSON FROM SELLING OR GIVING A VAPOR PRODUCT DESIGNED SOLELY FOR SMOKING OR INGESTING TOBACCO TO A MINOR

Chapter 47 (HB 1937)

Effective date: July 28, 2013

Amends RCW 26.28.080 to add a definition of “vapor product” and makes it a gross misdemeanor to sell or give a vapor product to a person under 18 (in addition to the existing prohibitions relating to cigars, cigarettes, cigarette paper or wrappers and tobacco).

ADOPTING A MODEL SCHOOL POLICY TO REQUIRE THIRD PERSON TO BE PRESENT DURING INTERVIEW IN INVESTIGATIONS OF CHILD ABUSE AND NEGLECT

Chapter 48 (SSB 5316)

Effective date: July 28, 2013

The Final Bill Report provides the following summary:

The Washington State School Directors' Association (WSSDA) must adopt a model policy to implement statutory provisions regarding the interview of children in child abuse and neglect investigations on school premises. The Association must consult with the [Department of Social and Health Services] and the Washington Association of Sheriffs and Police Chiefs (WASPC) in formulating its policy.

STATE AUDITOR APPLICATIONS FOR INVESTIGATIVE SUBPOENAS

Chapter 50 (SSB 5446)

Effective date: July 28, 2013

Adds a new section to chapter 43.09 RCW creating a process for the state auditor's office to apply to superior court for an investigative subpoena.

LED EDITORIAL COMMENT: This act codifies the procedural requirements of State v. Miles, 160 Wn.2d 236 (2007) Nov 07 LED:07.

BEER AND WINE TASTING ENDORSEMENT FOR GROCERY STORES

Chapter 52 (SSB 5517)

Effective date: July 2, 2013

The Final Bill Report provides the following summary:

Grocery stores licensed by [Liquor Control Board] LCB to sell beer and wine are able to apply to LCB for an endorsement that allows them to offer beer and wine tasting if they operate a fully enclosed retail area encompassing at least 10,000 square feet.

DISCLOSURE OF CERTAIN INFORMATION WHEN SCREENING TENANTS

Chapter 54 (SSB 5568)

Effective date: January 1, 2014

The Final Bill Report provides the following summary:

A tenant screening service provider may not disclose a tenant's, applicant's, or household member's status as a victim of domestic violence, sexual assault, or stalking; or knowingly disclose as to whether that person previously terminated a tenancy as a victim of these crimes. Tenants may voluntarily disclose their victim status.

AUTHORIZING APPLICATIONS FOR A SPECIAL PERMIT TO ALLOW ALCOHOL TASTING BY PERSONS AT LEAST EIGHTEEN YEARS OF AGE UNDER CERTAIN CIRCUMSTANCES

Chapter 59 (SSB 5774)

Effective date: July 28, 2013

Amends RCW 66.20.010 to authorize a special permit to allow tasting of alcohol by individuals who are at least 18 years old who are enrolled as a student in a class that is part of a culinary, wine technology, beer technology, or spirituous technology-related degree program.

ELECTRIC VEHICLE CHARGING STATIONS

Chapter 60 (ESSB 5849)

Effective date: July 28, 2013

Adds a new section to chapter 46.08 RCW prescribing marking and signage for an "electric vehicle charging station" (as defined in the act) and creating a parking infraction for parking a vehicle in an electric vehicle charging station provided on public or private property if the vehicle is not connected to the charging equipment.

CRIMINAL HISTORY RECORD INFORMATION COMPLIANCE AUDITS

Chapter 62 (SB 5466)

Effective date: July 28, 2013

The Final Bill Report provides the following summary:

In conducting its compliance audit, [the Washington State Patrol] WSP must identify dispositions that have been outstanding a year or longer since the date of arrest. Outstanding dispositions must be researched by WSP staff or the originating criminal justice agency. Upon receipt of a list of outstanding dispositions from WSP, the criminal justice agency must respond within 60 days.

SEXUAL ASSAULT PROTECTION ORDERS

Chapter 74 (SHB 1307)

Effective date: July 28, 2013

The Substitute House Bill Report provides the following Brief Summary:

- Prohibits courts from requiring either party to pay for appointment of a guardian ad litem in sexual assault protection order proceedings.
- Allows sexual assault protection orders and petitions to be served by publication or mail in certain circumstances.
- Adds provisions regarding hearings on contested petitions for renewal.

PROTECTION ORDERS FOR STALKING AND HARASSMENT

Chapter 84 (ESHB 1383)

Effective date: July 28, 2013

The act shall be known as the "Jennifer Paulsen Stalking Protection Order Act."

Creates a stalking no-contact order which may be issued during criminal prosecutions for stalking behavior, and a civil stalking protection order which may be issued where the petitioner does not qualify for a domestic

violence protection order. Orders may prohibit traditional stalking as well as cyberstalking. Violations will be prosecuted under RCW 26.50.110. Mandatory arrest procedures apply.

Felony stalking is reclassified in RCW 9A.46.110 from a class C felony to a class B felony. Court employees are added to the list of individuals of whom stalking constitutes a felony.

ADDING A REQUIREMENT TO SEXUAL HEALTH EDUCATION TO INCLUDE LEGAL ELEMENTS OF AND CONSEQUENCES OF CONVICTION FOR SEXUAL OFFENSES WHERE A MINOR IS THE VICTIM

Chapter 85 (SHB 1397)

Effective date: July 28, 2013

Amends RCW 28A.300.145(1) as follows:

(1) The Washington coalition of sexual assault programs, in consultation with the Washington association of sheriffs and police chiefs, the Washington association of prosecuting attorneys, and the office of the superintendent of public instruction, shall develop educational materials to be made available throughout the state to inform parents, students, school districts, and other interested community members about:

- ~~((4))~~ (a) The laws related to sex offenses, including the legal elements of sexual offenses under chapter 9A.44 RCW where a minor is a victim, the consequences upon conviction, and sex offender registration, community notification~~((1))~~, and the classification of sex offenders based on an assessment of the risk of reoffending;
- ~~((2))~~ (b) How to recognize behaviors characteristic of sex offenses and sex offenders;
- ~~((3))~~ (c) How to prevent victimization, particularly that of young children;
- ~~((4))~~ (d) How to take advantage of community resources for victims of sexual assault; and
- ~~((5))~~ (e) Other information as deemed appropriate.

Subsection (2) requires that by September 1, 2014, and biennially thereafter, the materials required in subsection (1) must be reviewed and updated to make sure that they remain current, accurate, and age appropriate.

Subsection (3) requires that public schools offering sexual health education must assure that the education complies with existing requirements in the January 2005 guidelines for sexual health information and disease prevention developed by the Department of Health and the Superintendent of Public Instruction. Education programs should include age-appropriate information about the legal elements of sexual offenses under chapter 9A.44 RCW where a minor is a victim and the consequences upon conviction, as well as the other information required to be included in informational materials prepared pursuant to subsection (1). Public schools that offer sexual health education are encouraged to incorporate the materials developed under subsection (1) into the curriculum.

DISCIPLINARY ACTIONS AGAINST THE HEALTH PROFESSIONS LICENSE OF THE SUBJECT OF A DEPARTMENT OF SOCIAL AND HEALTH SERVICES' FINDING

Chapter 86 (HB 1003)

Effective date: January 1, 2014

The House Bill Report provides the following Brief Summary:

Requires the Department of Health or health professions board or commission to summarily suspend the license of any health care provider who is prohibited from employment in the care of vulnerable adults based upon a finding of neglect or abuse of a minor or abuse, abandonment, neglect, or financial exploitation of a vulnerable adult.

LIQUOR SELF-CHECKOUT MACHINES

Chapter 89 (SHB 1009)

Effective date: July 28, 2013

Allows retailers to sell liquor at self-checkout registers as long as the register is programmed to halt the transaction until an employee can verify the purchaser's age.

EDUCATING PARENTS OF THE HARMFUL EFFECTS OF PARENTAL ABDUCTION

Chapter 91 (SHB 1021)

Effective date: July 28 2013

Adds a new section to chapter 26.09 RCW which requires:

In any proceeding under this chapter where the custody or care of a minor child is at issue or in dispute, information on the harmful effects of parental abduction shall be included in any packet of information or materials provided to the parties,

The new section specifically prescribes the information that must be provided in a "pamphlet regarding the harmful effects of parental abduction in child custody cases."

APPLICABILITY OF STATUTES OF LIMITATIONS IN ARBITRATION PROCEEDINGS

Chapter 92 (HB 1065)

Effective date: July 28, 2013

The House Bill Report provides the following summary:

The [Uniform Arbitration Act] is amended to specify that the time limitations applicable to the commencement of claims initiated in court will also apply to the commencement of claims subject to arbitration.

RELATING TO RAPE IN THE THIRD DEGREE AND INDECENT LIBERTIES BY SPOUSE

Chapter 94 (HB 1108)

Effective date: July 28, 2013

Amends the definitions of rape in the third degree, RCW 9A.44.060, and indecent liberties, RCW 9A.44.100, to remove the statutory exemption that prohibits a victim's spouse from being convicted of the crimes.

DEATH BENEFITS FOR VOLUNTEER FIRE FIGHTERS AND RESERVE OFFICERS

Chapter 100 (SHB 1180)

Effective date: July 28, 2013

The Substitute House Bill Report provides the following Brief Summary:

- Increases from \$152,000 to \$214,000 the lump-sum death benefit that is paid to survivors of Volunteer Fire Fighters' and Reserve Officers' Relief and Pension System (VFFRORPS) members who die as a result of injuries or sickness that are the result of the performance of duties.
- Replaces the monthly death benefits payable to the parents or legal guardians of surviving children of VFFRORPS members so to provide \$500 per dependent child, unemancipated or under 18 years of age.

LICENSE FEES UNDER TITLE 77 RCW FOR VETERANS WITH DISABILITIES

Chapter 101 (SHB 1192)

Effective date: February 1, 2014

The Substitute House Bill Report provides the following summary:

The lower hunting and fishing license prices available to Washington residents are extended to residents of other states who are veterans with a disability. To qualify, the non-state resident hunter or fisher must satisfy the same requirements for a discounted rate that state resident veterans with a disability must satisfy. These requirements are being an honorably discharged veteran of the United States armed forces and being either:

- age 65 or older with a service-related disability of any kind; or

- any age, with a 30 percent or greater service-related disability.

DEPARTMENT OF FISH AND WILDLIFE LICENSE SUSPENSIONS

Chapter 102 (HB 1218)

Effective date: July 28, 2013

Amends RCW 77.15.670. The House Bill Report provides the following summary:

The Washington Department of Fish and Wildlife (WDFW) must order a suspension of all of a person's privileges to hunt, fish, trap, or take wildlife, food fish, game fish, or shellfish for a period of two years if he or she violated a "suspension of department privileges" in the second degree and the violation was a child support-based suspension. The suspension period is four years if the suspension violation was in the first degree and a child support based suspension. The suspensions issued for child support-based violations are in addition to any suspension required for the underlying fish or wildlife violation. If a person with a child support-based suspension completes his or her period of suspension for violating a "suspension of department privileges" but is still suspended for child support noncompliance, the person cannot hunt, fish, or engage in any activity regulated by the WDFW until he or she obtains a release from the Department of Social and Health Services and provides a copy of the release to the WDFW.

The taking of game fish is included in the list of privileges permanently suspended upon conviction for violating a "suspension of department privileges" in the first degree.

The House Bill Report also provides a chart of penalties relevant to the act.

CLARIFYING THAT SERVICE INCLUDES ELECTRONIC DISTRIBUTION OF HEARING NOTICES AND ORDERS IN ADMINISTRATIVE PROCEEDINGS

Chapter 110 (EHB 1400)

Effective date: July 28, 2013

Amends sections of chapter 34.05 RCW to allow initial and final orders in administrative proceedings to be served electronically with the parties' consent.

PREVENTION OF ALCOHOL POISONING DEATHS BY EXEMPTING IN CERTAIN CIRCUMSTANCES FROM MINOR IN POSSESSION PROSECUTION

Chapter 112 (HB 1404)

Effective date: July 28, 2013

Amends RCW 66.44.270 to provide that a person under age 21 may not be charged with minor in possession of alcohol if that person: 1) is in need of medical assistance as a result of alcohol poisoning, if the evidence for the charge was obtained as a result of the poisoning and need for medical assistance; or 2) if the person acting in good faith seeks medical assistance for someone experiencing alcohol poisoning, if the evidence for the charge was obtained as a result of the person seeking medical assistance.

The exemption is not grounds for suppression of evidence in other criminal charges.

CORRECTING THE DEFINITION OF THC CONCENTRATION ADOPTED BY INITIATIVE MEASURE NO. 502 TO AVOID AN IMPLICATION THAT CONVERSION, BY COMBUSTION, OF TETRAHYDROCANNABINOL ACID, NOT DELTA-9 TETRAHYDROCANNABINOL, IS NOT PART OF THE THC CONTENT THAT DIFFERENTIATES MARIJUANA FROM HEMP

Chapter 116 (ESB 2056)

Effective date: May 1, 2013

This act was reported in the **June 2013 LED** at pages 2-3. Amends the I-502 definition of "THC concentration" in RCW 69.50.101(ii) to read as follows:

“THC concentration” means percent of delta-9 tetrahydrocannabinol content per dry weight of any part of the plant *Cannabis*, or per volume or weight of marijuana product, or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant *Cannabis* regardless of moisture content.

LED EDITORIAL COMMENTS:

- Cannabis plant material is primarily composed of delta-9-tetrahydrocannabinolic acid (THCA). THC is the active compound that provides a “marijuana high” but is usually present in very low levels in growing and freshly cultivated cannabis. The breakdown of THCA to THC occurs immediately when marijuana is smoked or used in baked goods.
- The combination of THCA and THC is referred to as Total THC and best represents the potential pharmacological activity of the plant material.
- The current definition of marijuana in RCW 69.50 (as a result of I-502) using only THC concentration is not consistent with the internationally recognized scientific definition of marijuana. The internationally accepted method to distinguish marijuana from hemp is to measure Total THC (both THCA and THC).
- Current published values from the medical marijuana industry demonstrate that very high quality marijuana can contain less than 0.3% THC while the Total THC is in excess of 20%. This material would not be considered marijuana based on the legal definition enacted by I-502.

Based upon these points the definition of marijuana used in I-502 posed a significant problem for law enforcement and prosecution of criminal possession, manufacturing and distribution of marijuana. It also posed a problem for Washington’s future regulation of legal marijuana manufacturing, distribution and sales as provided in I-502. The amendment cures the I-502 definitional problem regarding marijuana, and more clearly distinguishes marijuana from hemp, but does not impede the development of a hemp industry in Washington.

SERVICES FOR VICTIMS OF THE SEX TRADE

Chapter 121 (ESHB 1291)

Effective date: July 28, 2013

The Engrossed Substitute House Bill Report provides the following Brief Summary:

- Requires that fees stemming from the impound of vehicles used to facilitate certain prostitution related offenses will be remitted to the city or county where the offense occurred and be used for local efforts to reduce the commercial sale of sex, including increased enforcement and rehabilitative services for victims.
- Requires that 2 percent of the funds raised through the additional fees imposed in connection with vehicle impounds or prosecutions for prostitution related offenses must be remitted to the state, together with an accounting of the funds, for purposes of a statewide report.
- Allows courts to create a payment plan for the additional fees imposed in connection to prosecution for sex trafficking and prostitution-related offenses.
- Creates a statewide coordinating committee on sex trafficking.

PROPER DISPOSAL OF LEGAL AMOUNTS OF MARIJUANA INADVERTENTLY LEFT AT RETAIL STORES HOLDING A PHARMACY LICENSE

Chapter 133 (EHB 1808)

Effective date: July 28, 2013

Adds a new section to chapter 69.50 RCW providing that where one ounce or less of marijuana is inadvertently left at a retail store holding a pharmacy license, the store manager or employee must promptly notify local law enforcement, and then properly dispose of the marijuana. “Properly dispose” means ensuring that the marijuana is destroyed or rendered incapable of use.

VEHICLE LICENSE PLATE AND REGISTRATION FRAUD

Chapter 135 (ESHB 1944)

Effective date: July 28, 2013

Creates a new gross misdemeanor crime in chapter 46.37 RCW:

(1)(a) It is unlawful for a person to display a license plate on a vehicle that does not match or correspond with the registration of the vehicle unless the vehicle is inventory for a properly licensed vehicle dealer.

(b) It is unlawful for a person to have an installed license plate flipping device on a vehicle, use technology to flip a license plate on a vehicle, or use technology to change the appearance of a license plate on a vehicle.

(c) It is unlawful for a person or entity to sell a license plate flipping device or sell technology that will change the appearance of a license plate in the state of Washington.

(d) For purposes of this section, "license plate flipping device" means a device that enables a license plate on a vehicle to be changed to another license plate either manually or electronically. "License plate flipping device" includes technology that is capable of changing the appearance of a license plate to appear as a different license plate.

(2) A person who switches or flips license plates on a vehicle physically, utilizes technology to flip or change the appearance of a license plate on a vehicle, sells a license plate flipping device or technology that will change the appearance of a license plate, or falsifies a vehicle registration in violation of this section, in addition to any traffic infraction, is guilty of a gross misdemeanor punishable by confinement of up to three hundred sixty-four days in the county jail and a fine of one thousand dollars for the first offense, two thousand five hundred dollars for a second offense, and five thousand dollars for any subsequent offense, which may not be suspended, deferred, or reduced.

(3) A vehicle that is found with an installed license plate flipping device or technology to change the appearance of a license plate may be impounded by a law enforcement officer as evidence.

(4) Citizens are encouraged to notify law enforcement immediately if they observe a vehicle with a license plate flipping device.

GOLD STAR LICENSE PLATES

Chapter 137 (SB 5161)

Effective date: August 1, 2013

Expands the list of individuals who are eligible to receive a Gold Star license plate, currently available to the mother or father of a member of the armed forces who died while in service and as a result of that service, to include a widow or widower, a biological or adopted child, an adoptive parent, a stepparent, and a foster parent or other adult who is legally responsible for the member of the armed forces.

MOTORCYCLES OVERTAKING AND PASSING PEDESTRIANS AND BICYCLISTS

Chapter 139 (SSB 5263)

Effective date: July 28, 2013

Amends RCW 46.61.608(2) to allow motorcycles to overtake and pass a pedestrian or bicyclist that is occupying the same lane as the motorcycle as long as the motorcycle maintains a safe passing distance of at least three feet.

TRANSPORTATION AND STORAGE OF CERTAIN EXPLOSIVE DEVICES

Chapter 140 (SSB 5264)

Effective date: July 28, 2013

Amends RCW 70.74.191 to provide that the transportation and storage of explosive actuated tactical devices, including noise and flash diversionary devices, by local law enforcement tactical response teams and officers in department-issued vehicles are exempt from the Washington State Explosives Act and the regulation of the Department of Labor and Industries, so long as the devices are stored and secured in compliance with the regulations and rulings adopted by the federal Bureau of Alcohol, Tobacco and Firearms.

COMPOUNDING OF MEDICATIONS

Chapter 146 (HB 1800)

Effective date: May 7, 2013

Adds a new alternative means of violating RCW 18.64.270. Makes it a gross misdemeanor to compound, distribute, use or administer a medicinal product that is compounded for a patient that does not meet the standards of the official United States pharmacopeia as it applies to nonsterile products and sterile administered products.

REDEMPTION OF IMPOUNDED VEHICLES

Chapter 150 (SHB 1150)

Effective date: July 28, 2013

Amends RCW 46.55.120 to allow impounded vehicles to be redeemed by the vehicle's insurer or a vendor working on behalf of the insurer; or by a third-party insurer or a vendor working on behalf of a third-party insurer if that insurer has received a claim in connection with the vehicle and has received consent to move the vehicle from the owner or owner's agent.

CHANGING RETAIL THEFT WITH EXTENUATING CIRCUMSTANCES TO RETAIL THEFT WITH SPECIAL CIRCUMSTANCES

Chapter 153 (SSB 5022)

Effective date: January 1, 2014

Amends RCW 9A.56.360 by changing "retail theft with extenuating circumstances" to "retail theft with special circumstances."

CARRYING OF PASSENGERS IN A VEHICLE ATTACHED TO A FLATBED TOW TRUCK

Chapter 155 (SB 5050)

Effective date: July 28, 2013

Amends RCW 46.61.625 to allow tow truck operators to allow passengers to ride in a vehicle being carried on the deck of a flatbed truck when the number of passengers exceeds the number of seats in the tow truck or a physical disability prohibits a person from riding in a tow truck. Passengers must use seat belts and child restraints, adults must accompany minors, and there must be a way of immediately communicating with the tow truck operator.

PROVIDING PROOF OF REQUIRED DOCUMENTS FOR MOTOR VEHICLE OPERATION ELECTRONICALLY

Chapter 157 (ESSB 5095)

Effective date: July 28, 2013

The options for providing proof of insurance and registration to a law enforcement officer are expanded to allow display on a portable electronic device.

When a portable electronic device is used to display proof of insurance the officer may only view the proof of insurance and is prohibited from viewing any other content. Additionally, when a portable electronic device is used to display proof of insurance the person presenting the device assumes all liability for any damage to the device.

STATE AGENCIES' LOBBYING ACTIVITY

Chapter 166 (SHB 1093)

Effective date: January 1, 2014

The Substitute House Bill Report provides the following summary:

Personal liability, in the form of a civil penalty of \$100 per statement, is imposed on a state agency director who knowingly fails to file quarterly lobbying disclosure statements pertaining to the lobbying activities of the agency. This personal liability is in addition to any other civil remedy or sanction imposed on the agency.

Any state agency official, officer, or employee who is responsible for directing or expending, or who knowingly directs or expends, public funds in violation of agency lobbying restrictions is liable for a civil penalty. This civil penalty must be at least equivalent to the amount of public funds expended in the violation.

State agencies filing reports with the PDC must file all reports electronically.

MODIFYING PROVISIONS IN THE FORMS FOR TRAFFIC INFRACTION NOTICES

Chapter 170 (SHB 1265)

Effective date: July 28, 2013

Amends RCW 46.63.060 by clarifying that the penalty for an infraction, or the failure to appear at a requested hearing, relating to standing, stopping or parking violations may result in non-renewal of vehicle "registration;" and clarifying that the Department of Licensing "may" suspend a driver's license for failure to respond to a notice of traffic infraction or appear at a requested hearing. Requires that notice of traffic infraction forms include these changes by July 1, 2015.

CONVERSION KITS ON MOTORCYCLES

Chapter 174 (SHB 1334)

Effective date: July 28, 2013

The Substitute House Bill Report provides the following summary:

The definition of a motorcycle [in RCW 46.04.330] is revised to mean a motor vehicle designed to travel on not more than three wheels not including any stabilizing conversion kits.

The definition of a "motorcycle" in the Motorcycle Skills Education Program is updated to be the same definition as the chapter definition and clarifies that it excludes off-road motorcycles.

Authorizes the use of stabilizing conversion kits on motorcycles. Requires a person operating a motorcycle with a stabilizing conversion kit to have a valid driver's license specially endorsed for a three-wheeled motorcycle.

CREATING A CLAIM FOR COMPENSATION FOR WRONGFUL CONVICTION AND IMPRISONMENT

Chapter 175 (ESHB 1341)

Effective date: July 28, 2013

Creates a civil cause of action allowing persons wrongly convicted of one or more felonies and incarcerated as a result to bring a civil suit against the state for compensation.

Section 2 of the act provides in part:

(1) Any person convicted in superior court and subsequently imprisoned for one or more felonies of which he or she is actually innocent may file a claim for compensation against the state.

(2) For purposes of this chapter, a person is:

(a) "Actually innocent" of a felony if he or she did not engage in any illegal conduct alleged in the charging documents; and

(b) "Wrongly convicted" if he or she was charged, convicted, and imprisoned for one or more felonies of which he or she is actually innocent.

...

Section 4 of the act provides:

(1) In order to file an actionable claim for compensation under this chapter, the claimant must establish by documentary evidence that:

(a) The claimant has been convicted of one or more felonies in superior court and subsequently sentenced to a term of imprisonment, and has served all or part of the sentence;

(b)(i) The claimant is not currently incarcerated for any offense; and

(ii) During the period of confinement for which the claimant is seeking compensation, the claimant was not serving a term of imprisonment or a concurrent sentence for any crime other than the felony or felonies that are the basis for the claim;

(c)(i) The claimant has been pardoned on grounds consistent with innocence for the felony or felonies that are the basis for the claim; or

(ii) The claimant's judgment of conviction was reversed or vacated and the charging document dismissed on the basis of significant new exculpatory information or, if a new trial was ordered pursuant to the presentation of significant new exculpatory information, either the claimant was found not guilty at the new trial or the claimant was not retried and the charging document dismissed; and

(d) The claim is not time barred by section 9 of this act.

(2) In addition to the requirements in subsection (1) of this section, the claimant must state facts in sufficient detail for the finder of fact to determine that:

(a) The claimant did not engage in any illegal conduct alleged in the charging documents; and

(b) The claimant did not commit or suborn perjury, or fabricate evidence to cause or bring about the conviction. A guilty plea to a crime the claimant did not commit, or a confession that is later determined by a court to be false, does not automatically constitute perjury or fabricated evidence under this subsection.

(3) Convictions vacated, overturned, or subject to resentencing pursuant to In re: Personal Detention of Andress, 147 Wn.2d 602 (2002) [**Dec 02 LED:16; see also In re Hinton, 153 Wn.2d 853 (2004) Aug 05 LED:03**] may not serve as the basis for a claim under this chapter unless the claimant otherwise satisfies the qualifying criteria set forth in section 2 of this act and this section.

(4) The claimant must verify the claim unless he or she is incapacitated, in which case the personal representative or agent filing on behalf of the claimant must verify the claim.

(5) If the attorney general concedes that the claimant was wrongly convicted, the court must award compensation as provided in section 6 of this act.

(6)(a) If the attorney general does not concede that the claimant was wrongly convicted and the court finds after reading the claim that the claimant does not meet the filing criteria set forth in this section, it may dismiss the claim, either on its own motion or on the motion of the attorney general.

(b) If the court dismisses the claim, the court must set forth the reasons for its decision in written findings of fact and conclusions of law.

Partial Veto: The Governor vetoed sections 10 and 13, which required that claims for wrongful incarceration be paid out of the state's liability account. Claims will be paid out of the general fund.

JUVENILE MENTAL HEALTH DIVERSION AND DISPOSITION STRATEGIES

Chapter 179 (ESHB 1524)

Effective date: July 28, 2013

Adds a new section to chapter 13.40 RCW and amends other sections of this chapter. The Engrossed Substitute House Bill Report provides the following summary:

Authority of Law Enforcement.

When a police officer has reasonable cause to believe that a juvenile has committed acts that are considered nonserious offenses, and the officer has reason to believe that the juvenile suffers from a mental disorder, the officer may take the individual to an evaluation and treatment facility or an alternative location that the prosecutor, law enforcement, and the mental health provider have agreed to in advance. Law enforcement may continue any existing practice of taking a juvenile to an alternative location without agreement with local prosecutors.

Diversions.

A juvenile may have up to three diversions before the prosecutor must file an information alleging a criminal offense. If an assessment identifies that a juvenile has mental health

needs and he or she has been granted a diversion, the juvenile may receive up to 30 hours of counseling, and a term of the diversion agreement may include services that have been demonstrated to improve behavioral health and to reduce recidivism.

The definition of “community agency” is expanded to include a physician, counselor, school, or treatment provider.

Deferred Disposition.

If the court grants a deferred disposition to a juvenile, the court may require the juvenile to undergo a mental health or substance abuse evaluation, or both. If the assessment identifies a need for treatment, the conditions of supervision may include treatment that has been demonstrated to improve behavioral health and reduce recidivism.

FELONY FIREARM OFFENDERS, REGISTRATION REQUIREMENTS, AND WSP DATABASE

Chapter 183 (SHB 1612)

Effective date: July 28, 2013

Requires the Washington State Patrol to create and maintain a felony firearm offense conviction database of felony firearm offenders, and creates registration requirements. Exempts the database from public disclosure, and creates a new crime for failing to register.

The Substitute House Bill Report provides the following summary:

The WSP is required to maintain a felony firearm offense conviction database of felony firearm offenders. Felony firearm offenders are persons who have been convicted or found not guilty by reason of insanity in this state of various felony firearm offenses. The registry is only for law enforcement purposes and is not subject to public disclosure.

[LED EDITORIAL NOTE: the act provides an exemption from public disclosure in RCW 42.56.240(10).]

Upon conviction or finding of not guilty by reason of insanity of a felony firearm offense, the court must consider whether to impose a requirement that the person register as a felony firearm offender. In exercising its discretion, the court must consider relevant factors including the person’s criminal history, whether the person has been previously found not guilty by reason of insanity of any offense in any state, and any evidence of the person’s propensity for violence that would likely endanger others.

A person required to register must do so in person with the county sheriff no later than 48 hours after release from custody or the date the court imposes the felony firearm offender’s sentence, if the offender receives a sentence that does not include confinement. The offender must register yearly, no later than 20 days after each anniversary of the first registration. The duty to register continues for four years. Upon expiration of the person’s duty to register, the WSP must automatically remove the person’s name and information from the registry.

A variety of information must be provided when in the registration process, including: name and aliases, residential address, identifying information including a physical description, the offense for which the person was convicted, date and place of conviction, and the names of any other county where the offender has registered as a felony firearm offender. The county sheriff may require verifying documentation of the required information and may take the person’s photograph or fingerprints for inclusion in the registry.

If the registrant changes his or her residential address within the state, they must update their address information within 48 hours of moving. If the person lacks a fixed address, they must disclose where they plan to stay.

A person who has a duty to register and knowingly fails to comply with any of the provisions of this act is guilty of a gross misdemeanor [under a new section in chapter 9.41 RCW].

ELECTRONIC PRESENTMENT OF CLAIMS AGAINST THE STATE ARISING OUT OF TORTIOUS CONDUCT

Chapter 188 (SB 5136)

Effective date: July 28, 2013

Amends RCW 4.92.100 to allow for the electronic presentment of claims against the state. Under the amendment, claims may be presented by e-mail or fax so long as certain conditions are met.

PROTECTING PUBLIC EMPLOYEES WHO ACT ETHICALLY AND LEGALLY

Chapter 190 (ESSB 5577)

Effective date: July 28, 2103

Makes a number of changes to chapter 42.52 RCW, the Ethics in Public Service Act. The Final Bill Report provides the following summary:

A state employee who files an ethics complaint after making a reasonable attempt to ascertain the correctness of the information furnished must be afforded protection from retaliation similar to protection provided to whistleblowers, even if the complaint is subsequently denied. A retaliator may be subject to a civil penalty of up to \$5,000.

The [Executive Ethics Board] EEB may not delegate its authority to issue complaints to the board's executive director. The EEB may request the assistance of the Attorney General or a contract investigator when investigating the conduct of an employee.

The identity of a person filing an ethics complaint in good faith is made exempt from public disclosure under the Public Records Act.

An ethics action is deemed to have been commenced when the appropriate ethics board or the board's executive director accepts a complaint for filing and initiates a preliminary investigation. Each executive branch agency must designate an ethics advisor to assist the agency's employees in understanding their obligations under the Ethics in Public Service Act. Executive branch employees are encouraged to attend an ethics training at least once every 36 months.

DISCLOSURE OF HEALTH CARE INFORMATION

Chapter 200 (ESHB 1679)

Effective date: July 1, 2014
(section 5, effective May 10, 2013)

Makes a number of changes to statutes relating to the disclosure of protected health care information relating to mental health services and information related to sexually transmitted diseases. Also creates, effective July 1, 2014, in a new section in chapter 70.02 RCW a new gross misdemeanor for requesting or obtaining confidential mental health information or records under false pretenses.

REPORTING OF INCIDENTS OF STUDENT RESTRAINT AND ISOLATION IN PUBLIC SCHOOLS

Chapter 202 (ESHB 1688)

Effective date: July 28, 2013

Adds new sections to chapter 28A.600 RCW and chapter 28A.155 RCW relating to reports by staff to administration and by administration to parents regarding student restraint and isolation by school officials.

NOTIFICATION OF RELEASE OF A PERSON FOLLOWING DISMISSAL OF CHARGES BASED ON INCOMPETENCE TO STAND TRIAL

Chapter 214 (ESB 5221)

Effective date: July 28, 2013

The Final Bill Report provides the following summary:

A mental health facility that determines to release a person instead of filing a civil commitment petition for a person referred to the mental health facility for a civil commitment evaluation following dismissal of criminal charges based on incompetent to stand trial must provide written notice to the prosecuting attorney and defense attorney within at least 24 hours before release. The notice may be given by electronic mail, facsimile, or any other means reasonably likely to communicate the information immediately.

CREATING A STATEWIDE DATABASE OF MENTAL HEALTH COMMITMENT INFORMATION RELATED TO ELIGIBILITY TO POSSESS A FIREARM

Chapter 216 (SSB 5282)

Effective date: July 28, 2013

Establishes a work group comprised of the Department of Licensing, Washington State Patrol, Department of Social and Health Services, Administrative Office of the Courts, and representatives of regional support networks and superior courts. The “purpose is to make a proposal for consolidation of statewide involuntary commitment information for the purpose of accurate and efficient verification of eligibility to possess a firearm.”

BEER AND WINE THEATER LICENSE

Chapter 219 (SHB 1001)

Effective date: July 28, 2013

Creates a license allowing theaters (having no more than four screens) to sell beer and wine.

If theater premises are to be frequented by minors, an alcohol control plan must be submitted to the Liquor Control Board. The plan must include: (1) a statement explaining where and when minors and alcohol are permitted; and (2) the control measures to be used to prevent minors from obtaining alcohol or being exposed to environments where drinking alcohol predominates.

EXEMPTING FROM PUBLIC INSPECTION AND COPYING PERSONAL INFORMATION RELATING TO CHILD CARE AND IN DEPARTMENT OF EARLY LEARNING RECORDS

Chapter 220 (HB 1203)

Effective date: July 28, 2013

Amends RCW 42.56.230(2) to exempt personal information contained in child care and Department of Early Learning records from public disclosure.

REQUIREMENTS FOR THE OPERATION OF COMMERCIAL MOTOR VEHICLES IN COMPLIANCE WITH FEDERAL REGULATIONS

Chapter 224 (SHB 1752)

Effective date: July 8, 2014

The Substitute House Bill Report provides the following Brief Summary:

Makes changes to the commercial driver's licenses, applications, and commercial learner's permits laws in order to comply with federal law and avoid the withholding of federal funds that would result from noncompliance.

Creates a “commercial learner’s permit,” a CLP.

SIMPLIFYING AND UPDATING STATUTES RELATING TO FUEL TAX ADMINISTRATION

Chapter 225 (SHB 1883)

Effective date: July 28, 2013

The Substitute House Bill Report provides the following Brief Summary:

- Consolidates the motor vehicle fuel and special fuel tax statutes into a single statutory scheme.

- Amends the aviation fuel tax statutes to make these statutes more consistent with the motor vehicle fuel and special fuel tax statutes.

Amends various statutes to reflect the consolidation of the fuel tax statutes.

ADJUDICATION OF TOLLS AND ACCOMPANYING CIVIL PENALTIES

Chapter 226 (SHB 1941)

Effective date: July 28, 2013

Amends RCW 46.63.160, relating to tolls. During the administrative adjudicative process the alleged violator must have an opportunity to explain mitigating circumstances. Valid mitigating circumstances may include: Hospitalization, divorce or legal separation resulting in transfer of the vehicle, an active duty member of the military or national guard covered by the federal service members civil relief act, 50 U.S.C. Sec. 501, or state service members' civil relief act, chapter 38.42 RCW, eviction, homelessness, the death of the alleged violator or of an immediate family member, or failure of the alleged violator to receive a toll charge bill or notice of civil penalty. In response to these circumstances, the adjudicator may reduce or dismiss the civil penalty.

Also requires that the envelope containing a toll charge bill or related notice or a notice of civil penalty must prominently indicate that the contents are time sensitive and related to a toll violation.

LICENSING STANDARDS FOR BEFORE-SCHOOL AND AFTER-SCHOOL PROGRAMS

Chapter 227 (ESHB 1968)

Effective date: July 28, 2013

The Engrossed Substitute House Bill Report provides the following brief summary:

Requires the Washington State Patrol (WSP), through the Fire Marshal's office, to adopt licensing standards that allow children who attend classes in a school building during school hours, or children who attend another school and are transported to the school, to remain in the building to participate in before-school or after-school programs.

SAFE SCHOOL BUILDINGS

Chapter 233 (2SSB 5197)

Effective date: July 28, 2013

The Final Bill report provides the following summary:

Districts must work with local law enforcement to develop an emergency response system to expedite the response and arrival of law enforcement. Districts must submit a progress report by December 1, 2014. Districts must consider installing perimeter security control and using building designs with certain safety features.

The School Safety Advisory Committee must develop model policies regarding emergency response appropriate for a range of scenarios, and develop recommendations for incorporating specified school safety features in the planning and design of new or remodeled facilities. A report is required by December 1, 2013.

...

LIMITED ON-PREMISES SPIRIT SAMPLING

Chapter 234 (SSB 5396)

Effective date: July 28, 2013

The Final Bill Report provides the following summary:

Spirits retail license holders who participate in the responsible vendor program may provide samples of spirits. Servers must hold a class 12 alcohol server permit. Samples may be one-half ounce or less. No one may be served more than a total of one and one half ounces of spirits. Sampling must be conducted in accordance with rules established for sampling activities in beer and wine specialty shops and grocery stores.

BEER, WINE, AND SPIRITS THEATER LICENSE

Chapter 237 (ESB 5607)

Effective date: July 28, 2013

The Final Bill Report provides the following summary:

A theater beer, wine, and spirits license is created. In order to obtain a theater beer, wine, and spirits license from the [Liquor Control Board] LCB, a theater must have no more than 120 seats per screen, provide tabletop accommodations for in-theater dining, and comply with the same meal preparation and service requirements as restaurant licensees. . . .

WINE AND BEER SAMPLING AT FARMERS MARKETS

Chapter 238 (SB 5674)

Effective date: July 28, 2013

Authorizes qualifying farmers markets to apply to the Liquor Control Board for an endorsement to allow sampling of wine, beer, or both.

VETERINARIAN IMMUNITY FROM LIABILITY WHEN REPORTING SUSPECTED ANIMAL CRUELTY

Chapter 245 (SB 5102)

Effective date: July 28, 2013

Adds a new section to chapter 16.52 RCW which provides that a veterinarian who “reports, in good faith and in the normal course of business, a suspected incident of animal cruelty that is punishable under this chapter to the proper authorities is immune from liability in any civil or criminal action brought against such veterinarian for reporting the suspected incident.”

REQUIRING HOSPITALS TO REPORT WHEN PROVIDING TREATMENT FOR BULLET WOUNDS, GUNSHOT WOUNDS, AND STAB WOUNDS TO ALL PATIENTS

Chapter 252 (ESB 5305)

Effective date: July 28, 2013

Amends RCW 70.41.440(1) which requires hospitals to report to local law enforcement when the hospital provides treatment for a bullet wound, gunshot wound, or stab wound to a patient who is unconscious. The amendment removes the word “unconscious”, thus requiring reporting regardless of the state of consciousness of the patient.

ESTABLISHING THE COMMERCIALLY SEXUALLY EXPLOITED CHILDREN STATEWIDE COORDINATING COMMITTEE

Chapter 253 (SSB 5308)

Effective date: July 28, 2013

The Final Bill Report provides the following summary:

The Commercially Sexually Exploited Children Statewide Coordinating Committee (Committee) is established to address the issue of children who are commercially sexually exploited, examine the practices of local and regional entities involved in addressing sexually exploited children, and make recommendations on statewide laws and practices.

The Committee is called to order by the Office of the Attorney General, and the prescribed membership includes legislators, representatives from state and local agencies, and relevant criminal justice entities. The legislative representatives must be appointed by the Speaker of the House of Representatives and the President of the Senate. The representatives of nongovernmental organizations and community service providers must be appointed by the Office of the Attorney General.

. . .

IMPLEMENTATION OF THE RECOMMENDATIONS MADE BY THE POWELL FATALITY TEAM

Chapter 254 (SSB 5315)

Effective date: July 28, 2013

This Act implements the recommendations made by the Department of Social and Health Services' (DSHS) Child Fatality Review of the deaths of the Powell children while on supervised visit in their father Joshua Powell's home.

Among other changes, the act amends RCW 13.34.136 to provide:

When a parent or sibling has been identified as a suspect in an active criminal investigation for a violent crime that, if the allegations are true, would impact the safety of the child, the [DSHS] shall make a concerted effort to consult with the assigned law enforcement officer in the criminal case before recommending any changes in parent/child or child/sibling contact. In the event that the law enforcement officer has information pertaining to the criminal case that may have serious implications for child safety or well-being, the law enforcement officer shall provide this information to the [DSHS] during the consultation. The [DSHS] may only use the information provided by law enforcement during the consultation to inform family visitation plans and may not share or otherwise distribute the information to any person or entity. Any information provided to the [DSHS] by law enforcement during the consultation is considered investigative information and is exempt from public inspection pursuant to RCW 42.56.240. The results of the consultation shall be communicated to the court.

ASSAULT IN THE THIRD DEGREE OCCURRING IN AREAS USED IN CONNECTION WITH COURT PROCEEDINGS

Chapter 256 (ESB 5484)

Effective date: July 28, 2013

Amends RCW 9A.36.031 to add the following conduct to assault in the third degree:

Assaults a person located in a courtroom, jury room, judge's chamber, or any waiting area or corridor immediately adjacent to a courtroom, jury room, or judge's chamber. This section shall apply only: (i) During the times when a courtroom, jury room, or judge's chamber is being used for judicial purposes during court proceedings; and (ii) if signage [notifying the public of possible enhanced penalties] was posted in compliance with section 3 of this act at the time of the assault.

SPECIALTY COURTS

Chapter 257 (SB 5797)

Effective date: July 28, 2013

Adds a new section to chapter 2.28 RCW that encourages the establishment of specialty and therapeutic courts through which agencies coordinate their work to provide treatment and other services related to special problems such as drugs, alcohol, gambling, and mental health.

MEDICATION ACCESS FOR THE UNINSURED

Chapter 260 (SSB 5148)

Effective date: July 1, 2014

Adds a new chapter to Title 69 RCW that allows for the redistribution of medication under certain circumstances. Also provides practitioners, pharmacists, medical facilities, drug manufacturers, and drug wholesalers who donate, accept, or dispense prescription drugs or supplies for redistribution immunity from criminal prosecution, professional discipline, or civil liability for damages relating to the donation, acceptance, or dispensing of the prescription drug, as long as the acts or omissions do not constitute gross negligence.

ABUSE OF VULNERABLE ADULTS

Chapter 263 (SB 5510)

Effective date: July 28, 2013

Amends sections of chapter 74.34 RCW relating to the abuse of vulnerable adults. The Final Bill Report provides the following summary:

The definition of neglect is modified to clarify that the act or omission that demonstrates a clear and present danger to a vulnerable adult must be an act or omission of a person with a duty of care to the vulnerable adult.

In conducting an investigation of abandonment, abuse, financial exploitation, self-neglect, or neglect of a vulnerable adult, [Department of Social and Health Services] DSHS or law enforcement must have access to all relevant records related to the vulnerable adult that are in possession of mandated reporters and their employees. However, records maintained by professional review boards and quality improvement committees are not subject to disclosure and access to any records that would violate attorney-client privilege may not be provided without a court order. Providing access to required records is not considered a violation of any confidential communication privilege.

...

LOCAL AUTHORITIES ALTERING MAXIMUM SPEED LIMITS

Chapter 264 (HB 1045)

Effective date: July 28, 2013

The House Bill Report provides the following summary:

A city or town is not required to conduct an engineering and traffic investigation if the city or town reduces the speed limit on a nonarterial highway within a residence or business district to 20 miles per hour [**LED EDITORIAL NOTE: speed limits on city roads are set at 25 miles per hour**]. This waiver applies, however, only if the city or town has developed procedures for establishing such lower speed limits. The requirement is also waived if the city or town seeks to cancel a lower speed limit that had been established through the previously described process. In that case, the cancellation must occur within one year of the initial establishment of the 20-mile-per-hour limit. . . .

CRIMINAL JUSTICE TRAINING COMMISSION FIRING RANGE MAINTENANCE ACCOUNT

Chapter 265 (SHB 1613)

Effective date: July 28, 2013

Adds a new section to chapter 43.101 RCW which creates the Criminal Justice Training Commission Firing Range Maintenance Account, providing in part as follows:

The criminal justice training commission firing range maintenance account is created in the custody of the state treasurer. All moneys generated by the rental of the commission's firing range facilities, property, and equipment must be deposited into the account. The sources of the moneys generated and deposited under this section may include federal, state, local, or private grants, consistent with RCW 43.101.190. Expenditures from the account may be used only for cost related to rental, maintenance, or development of the commission's firing range facilities, property, and equipment.

CONDITIONS UNDER WHICH THE DEPARTMENT OF CORRECTIONS PROVIDES RENTAL VOUCHERS TO AN OFFENDER

Chapter 266 (ESB 5105)

Effective date: July 28, 2013

Relates to rental vouchers that the Department of Corrections (DOC) may provide to offenders. Among other things the act requires that anytime a new housing provider or location is added to the list of housing providers, DOC must give notice to local law enforcement where the housing is located.

VEHICLE PROWLING AS CLASS C FELONY FOR THIRD OR SUBSEQUENT CONVICTION

Chapter 267 (ESB 5053)

Effective date: July 28, 2013

Amends RCW 9A.52.100 to make a third or subsequent conviction of vehicle prowling a class C felony.

PLACING EPINEPHRINE AUTOINJECTORS IN SCHOOLS

Chapter 268 (ESB 5104)

Effective date: July 28, 2013

Authorizes school districts and nonpublic schools to maintain a supply of epinephrine autoinjectors (“epi pens”) at schools for potentially life-threatening allergic reactions. Prescriptions may be issued in the name of the school district or school.

ENFORCING SPEED LIMITS WITHIN CONDOMINIUM ASSOCIATION COMMUNITIES

Chapter 269 (SB 5113)

Effective date: July 28, 2013

Amends RCW 46.61.419 to allow law enforcement personnel to enforce speeding violations on private roads in condominium associations and apartment associations, so long as the provisions required for home owners’ associations are met by the associations.

SENTENCING FOR CRIMES AGAINST PHARMACIES

Chapter 270 (SB 5149)

Effective date: July 28, 2013

Adds a new section to chapter 9.94A RCW which provides:

In a criminal case where:

- (1) The defendant has been convicted of robbery in the first degree or robbery in the second degree; and
- (2) There has been a special allegation pleaded and proven beyond a reasonable doubt that the defendant committed a robbery of a pharmacy as defined in RCW 18.64.011(21); the court shall make a finding of fact of the special allegation, or if a jury is had, the jury shall, if it finds the defendant guilty, also find a special verdict as to the special allegation.

An additional twelve months must be added to the standard sentence range for an offense that is a robbery of a pharmacy.

MANDATORY REPORTING OF CHILD ABUSE OR NEGLECT

Chapter 273 (SB 5359)

Effective date: July 28, 2013

Amends RCW 26.44.030 to define organization, reasonable cause and sexual contact to further outline the circumstances when a person, including a person in a supervisory capacity, is mandatorily required to report suspected child abuse or neglect.

BOATING SAFETY

Chapter 278 (SSB 5437)

Effective date: July 28, 2013

Amends the boating under the influence statute, RCW 79A.60.040, and other statutes relating to boating safety. The Final Bill Report provides the following summary:

It is a gross misdemeanor to operate a vessel under the influence of alcohol or marijuana. A person is considered under the influence if, within two hours of operating a vessel the person has a blood-alcohol concentration of 0.08 percent or a THC concentration of 5.00 nanograms per milliliter or higher; the person is under the influence of or affected by intoxicating liquor, marijuana, or any drug; or the person is under the combined influence of or affected by intoxicating liquor, marijuana, and any drug.

Any person who operates a vessel is deemed to have given consent to a test of the person’s breath or blood to determine the alcohol concentration, THC concentration, or presence of any drug in the person’s breath or blood when arrested for any offense, if the arresting officer has reasonable grounds to believe the person was operating a vessel

while under the influence of alcohol, marijuana, or any drug. The officer must warn persons that if they refuse to take the test, they will be issued a class 1 civil infraction with a maximum penalty and default amount of \$1,000. The refusal is not admissible into evidence at any subsequent criminal proceeding.

A police officer may obtain a search warrant for a person's breath or blood. A blood test must be administered if the officer has reasonable grounds to believe that the person is under the influence of a drug, or if the person is incapable of providing a breath sample due to physical injury, physical incapacity, or other physical limitation, or if the person is being treated in a hospital, clinic, doctor's office, emergency medical vehicle, ambulance, or other similar facility. **[LED EDITORIAL NOTE: this second sentence was deleted from the implied consent for driving statute. See chapter 35, Second Special Session (E2SSB 5912).]**

A law enforcement officer investigating the scene of a motor vessel accident may arrest the operator of the involved motor vessel if there is probable cause to believe that the operator has committed a criminal violation, in connection with the accident, a boating safety law violation. A law enforcement officer investigating the scene of a motor vessel accident may issue a citation to the operator of the involved motor vessel if there is probable cause to believe that the operator has committed an infraction, in connection with the accident, a boating safety law violation. **[LED EDITORIAL NOTE: the preceding two sentence describe new subsections (5)(a) and (5)(b) inserted in RCW 10.31.100.]** If a vessel does not contain the required safety equipment, the owner or the operator, or both, may be cited for an infraction or charged with an appropriate crime.

No person, other than fishing guides, charter boat operators, or paid whitewater river outfitters or guides, who has vessels for hire may rent, lease, charter, or permit the use of a vessel, unless the person [complies with a number of requirements relating to the provision of safety equipment]. **[LED EDITORIAL NOTE: the first two failures to do so are civil infractions, the third within one year is a misdemeanor.]**

LED EDITORIAL COMMENTS: Chapter 278 creates an implied consent provision. This implied consent differs from the driving a motor vehicle while under the influence implied consent in that a refusal is a civil infraction and is not admissible in a criminal case.

Officers will recall that the recent United States Supreme Court decision in Missouri v. McNeely, ___ U.S. ___, 2013 WL 1628934 (April 17, 2013) June 13 LED:03, invalidated non-consensual blood draws. (For additional discussion of McNeely see the June 2013 LED beginning at page 5.) Additionally, chapter 35, Second Special Session (E2SSB 5912), amended implied consent for driving provisions (RCW 46.20.308) to eliminate nonconsensual blood draws absent a warrant or exigent circumstances. Accordingly, officers are advised to obtain a search warrant for blood, unless exigent circumstances exist (independent of the natural dissipation of alcohol in the blood). We remind officers that a template for search warrants for blood is available on the Washington Association for Prosecuting Attorneys (WAPA) website: <http://www.waprosecutors.org/docs/Search-Warrant-for-Blood-2011%20.pdf>. Finally, as always we encourage officers to consult with their assigned agency legal advisors and/or local prosecutors in determining what procedures to follow.

MISSING ENDANGERED PERSONS

Chapter 285 (SSB 5556)

Effective date: July 28, 2013

Amends RCW 13.60.010 and .020 to relating to missing endangered persons. The Final Bill Report provides the following summary:

Missing endangered person is defined as a person with a developmental disability or a vulnerable adult believed to be in danger because of age, health, mental or physical disability, a combination of environmental or weather conditions, or is believed to be unable to return safely without assistance. The Missing Children Clearinghouse is renamed the Missing Children and Endangered Person Clearinghouse. The [Endangered Missing Person Advisory] EMPA plan is created and maintained by the Washington State Patrol (WSP). Social media may be used to enhance the public's ability to assist in recovering abducted children or missing endangered persons. **Law enforcement agencies must file the missing person report into the state missing person computerized network within six hours instead of within 12 hours.**

[Emphasis added]

SEATTLE SOUNDERS FC AND SEATTLE SEAHAWKS SPECIAL LICENSE PLATES

Chapter 286 (SSB 5152)

Effective date: January 1, 2014

Adds the Seattle Seahawks and Seattle Sounders FC to the list of approved special license plates.

PROVIDING ACCESS TO HEALTH INSURANCE FOR CERTAIN LAW ENFORCEMENT OFFICERS' AND FIREFIGHTERS' PLAN MEMBERS CATASTROPHICALLY DISABLED IN THE LINE OF DUTY

Chapter 287 (SHB 1868)

Effective date: July 28, 2013

The act shall be known as the "Wynn Loiland Act."

The Substitute House Bill Report provides the following Brief Summary:

- Expands eligibility for reimbursement of medical insurance premium costs for members of the Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) Plan 2 totally disabled in the line of duty.
- Provides reimbursement of other medical insurance premiums for these LEOFF 2 members who are not eligible for employer-sponsored medical insurance, Medicare, or coverage under the federal Consolidated Omnibus Budget Reconciliation Act.

CRIMINAL INCOMPETENCY, CIVIL COMMITMENT, AND COMMITMENTS BASED ON CRIMINAL INSANITY

Chapter 289 (E2SHB 1114)

Effective date: July 28, 2013

The Engrossed Second Substitute House Bill Report provides the following Brief Summary:

- Modifies procedures and standards for involuntary commitment of persons who have been deemed incompetent to stand trial for violent felonies.
- Provides additional notification and review requirements for release of certain involuntarily committed people.

LABELING OF SEAFOOD

Chapter 290 (SHB 1200)

Effective date: July 28, 2013

RCW 69.04.933 and .934, unlawful misbranding of food, fish or shellfish, are amended. The degree of the crime (first, second or third) is determined by the fair market wholesale value of the misbranded food, fish or shellfish. Other sections of chapter 69.04 RCW are also amended.

The Substitute House Bill Report provides the following Brief Summary:

- Creates a system for the unlawful misbranding of food fish or shellfish.

- Delegates authority to the Washington State Department of Agriculture (WSDA) in consultation with the Washington Department of Fish and Wildlife to provide procedures for enforcing food fish and shellfish labeling and misbranding.
- Defines “food fish” and “shellfish” and clarifies the definition of “commercially caught.”
- Establishes a system for identifying the common names for seafood.
- Allows the WSDA to develop an electronic pamphlet describing seafood labeling requirements.

DERELICT AND ABANDONED VESSELS IN STATE WATERS

Chapter 291 (ESHB 1245)

Effective date: July 28, 2013

(section 34 and 38 have different effective dates)

Makes a number of changes to laws relating to derelict and abandoned vessels. Amends RCW 88.02.380 to decriminalize violations of chapter 88.02 RCW (vessel registration), instead making violations class 2 civil infractions.

UNIFORM CORRECTION OR CLARIFICATION OF DEFAMATION ACT

Chapter 294 (ESB 5236)

Effective date: July 28, 2013

Creates a new chapter in Title 7 RCW which will be the Uniform Correction or Clarification of Defamation Act. It relates to civil claims for damages for false statements.

REPORTS AND RECORDS OF AUTOPSIES AND POSTMORTEMS

Chapter 295 (SSB 5256)

Effective date: January 1, 2014

Amends RCW 68.50.105 by adding the following language:

(2)(a) Notwithstanding the restrictions contained in this section regarding the dissemination of records and reports of autopsies or postmortems, nor the exemptions referenced under RCW 42.56.240(1), nothing in this chapter prohibits a coroner, medical examiner, or his or her designee, from publicly discussing his or her findings as to any death subject to the jurisdiction of his or her office where actions of a law enforcement officer or corrections officer have been determined to be a proximate cause of the death, except as provided in (b) of this subsection.

(b) A coroner, medical examiner, or his or her designee may not publicly discuss his or her findings outside of formal court or inquest proceedings if there is a pending or active criminal investigation, or a criminal or civil action, concerning a death that has commenced prior to the effective date of this section.

The Act also provides immunity from liability for the release of information by a coroner, medical examiner, or designee, as long as they made a good faith attempt to comply with the law.

USE OF FARM VEHICLES ON PUBLIC HIGHWAYS

Chapter 299 (ESB 5616)

Effective Date: July 28, 2013

Amends RCW 46.16A.080, 46.16A.420, and 46.04.181 relating to the operation of farm vehicles on public highways. The Final Bill Report provides the following summary:

A farm exempt vehicle may be used incidentally on public highways within 25 miles of the farm where it is principally used to travel between farms or other locations to engage in activities that support farming operations. Farm exempt decals must be visible from the rear of the vehicle.

TRAFFICKING

Chapter 302 (ESSB 5669)

Effective Date: August 1, 2013

Amends sections of chapters 9.68A, 9A.40, 9A.44, 9A.82, and 13.34.132. The Final Bill Report provides the following summary:

Communication with a minor for immoral purposes is a class C felony if the person communicates with a minor for immoral purposes, including the purchase or sale of commercial sex acts and sex trafficking, by the sending of an electronic communication. Consent of the minor is not a defense for the crimes of commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, promoting travel for the commercial sexual abuse of a minor, permitting commercial sexual abuse of a minor, or trafficking in the first and second degree.

The offenses of trafficking in the first or second degree do not require actions with knowledge, or in reckless disregard of the fact, that force, fraud, or coercion will be used to cause the person to engage in a sexually explicit act or a commercial sex act if the victim of the offense is a minor. Evidence of a victim's past sexual behavior is not admissible if offered to attack the victim's credibility in trafficking and sexual exploitation of a minor cases.

Trafficking with a finding of sexual motivation is defined as a sex offense for the purposes of requiring registration as a sex offender.

In a criminal proceeding, the court may order that a child under the age of 14, instead of 10, may testify in a room outside the presence of the defendant and the jury by using closed circuit television. The types of trials in which this testimony may be used is expanded to include trafficking and sexual exploitation of a minor.

Trafficking, promoting travel for the commercial sexual abuse of a minor, and permitting commercial sexual abuse of a minor are added as offenses that can lead to a criminal profiteering action.

In proceedings for the termination of a parent-child relationship when the court is determining whether reasonable efforts are required to unify the family, it is considered an aggravating circumstance if the parent has been convicted of trafficking or promoting commercial sexual abuse of a minor when the victim of the crime is the child, the child's other parent, a sibling of the child, or another child.

AQUATIC INVASIVE SPECIES

Chapter 307 (SSB 5702)

Effective date: July 28, 2013

Amends a number of statutes in Title 77 RCW (Department of Fish and Wildlife (DFW)) relating to aquatic invasive species (AIS).

Modifies current law to require a person who enters Washington by road and is transporting a watercraft used in any area outside of the state (not just those areas designated by DFW rule) to have documentation that the watercraft is free of AIS.

Creates a new AIS infraction in RCW 77.15.160(4):

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

ADDRESSING THE EVASION OF TAXES BY THE USE OF CERTAIN ELECTRONIC MEANS

Chapter 309 (SB 5175)

Effective Date: July 28, 2013

Amends RCW 82.32.290 and adds a new section to chapter 82.32 RCW. The Final Bill Report provides the following summary:

Any person who commits electronic tax fraud using an automated sales suppression device or phantom-ware will be charged with a class C felony [under RCW 82.32.290]. Any person who provides an automated sales suppression device or phantom-ware to another person will be subject to an additional mandatory fine that is the greater of \$10,000 or the amount lawfully due from the person who received and used the device.

...

Automated sales suppression devices or phantom-ware are considered contraband and are subject to seizure and forfeiture.

EXEMPTION OF INFORMATION CONTAINED IN THE DEPARTMENT OF CORRECTIONS' SECURITY THREAT GROUP DATABASE

Chapter 315 (SB 5810)

Effective Date: July 28, 2013

Adds a new section to chapter 72.09 RCW authorizing the Department of Corrections (DOC) to:

[C]ollect, evaluate, and analyze data and specific investigative and intelligence information concerning the existence, structure, activities, and operations of security threat groups and the participants involved therein under the jurisdiction of the [DOC].

The section also provides an exemption from public disclosure (and adds an identical exemption to RCW 42.56.240):

The following security threat group information collected and maintained by the [DOC] shall be exempt from public disclosure under chapter 42.56 RCW: (a) Information that could lead to the identification of a person's security threat group status, affiliation, or activities; (b) information that reveals specific security threats associated with the operation and activities of security threat groups; and (c) information that identifies the number of security threat group members, affiliates, or associates.

REDUCTION OF METAL THEFT

Chapter 322 (ESHB 1552)

Effective Date: July 28, 2013

(sections 12 through 23 January 1, 2014)

The Engrossed Substitute House Bill Report provides the following summary:

Criminal Penalties.

For the purposes of the offense of Malicious Mischief in the first, second, or third degrees, the amount of physical damage includes any diminution in the value of any property as the consequence of an act, as well as the cost to repair any physical damage.

Theft in the first degree includes theft of commercial metal property, nonferrous metal property or private metal property, when the costs of the damage to the owner's property exceeds \$5,000.

Theft in the second degree includes theft of commercial metal property, nonferrous metal property or private metal property, when the costs of the damage to the owner's property exceeds \$750, but does not exceed \$5,000.

Requirements for Scrap Metal Transactions.

Transaction Requirements.

Transactions involving private metal property or nonferrous metal property may only be paid by nontransferable check, mailed three days after the transaction, except that if a

scrap metal business digitally captures a photo ID and either a picture or video of the material sold. . . .

Recordkeeping Requirements.

Records must be maintained for five years from the date of transaction between a scrap metal business and a member of the general public or from three years from the date of purchase or receipt, for a commercial account.

Requests From Law Enforcement.

Law enforcement records requests must only be in regard to a specified individual. Records created or produced in response to a law enforcement request are exempt from disclosure under the public records act. Compliance with law enforcement requests shall not give rise to or form the basis of private civil liability on the part of a scrap metal business.

Preserving Evidence of Metal Theft.

A law enforcement officer's notification that an item of metal property has been reported as stolen must be in writing to require a scrap metal business to tag and hold that item.

Criminal Penalties.

It is a gross misdemeanor to knowingly make a false oral or written statement or to furnish any false identification, intended or likely to deceive the scrap metal business as to the actual seller of the metal.

Licensing.

Any businesses which engage in the business of purchasing or receiving metal property for the purpose of aggregation and resale or for the purpose of altering the metal in preparation for its use in the manufacture of new products are required to obtain a scrap metal license through the Department of Licensing [DOL]. Only businesses which conduct more than five transactions per year are required to be licensed.

. . .

The [DOL] may refuse to issue a license to a person whose previous license has been canceled for cause or to a person who the [DOL] believes is acting on behalf of a person whose license has previously been canceled for cause.

Unlicensed activity is punishable as a gross misdemeanor or, for a second or subsequent offense, a level II class C felony.

. . . The [DOL] may also obtain a subpoena for any persons, books, records, vehicles, or metal property bearing on an investigation under the licensing program. Any records created or produced under such a subpoena are exempt from the Public Records Act. Additionally, the [DOL], local law enforcement, or the Washington State Patrol may make periodic unannounced inspections of a licensee's records or premises.

Preemption.

The entire field of regulation of scrap metal businesses is preempted by the State of Washington. . . .

No-Buy List Database.

The Washington Association of Sheriffs and Police Chiefs (WASPC) is directed to create and operate a statewide "no-buy" database, which will allow scrap metal businesses to determine if a potential customer has been convicted in the past four years of Burglary, Robbery, Theft, or Possession of or Receiving Stolen Goods, any of which make it illegal for the scrap metal business to purchase from the potential customer. [WASPC shall not be liable for civil damages resulting from any act or omission in carrying out this section,

unless such act or omission constitutes gross negligence or willful or wanton misconduct.]

A scrap metal business must search the database before completing any transaction. . . .

Scrap Theft Alert System.

Licensed scrap metal businesses are required to sign up with the free scrap theft alert system operated by the Institute of Scrap Recycling Industries to receive alerts regarding thefts of metal property in their geographic area and use the alerts to identify potentially stolen metal property. Law enforcement agencies may, but need not, register as well.

Washington Metal Theft Enforcement Grant Program.

The WASPC shall administer a grant program to support additional enforcement efforts targeting metal theft in areas in which a significant metal theft problem has been shown. The grant recipients must collect data on performance. The WASPC may receive an administrative fee of up to 3 percent of appropriated funding.

Civil Forfeiture.

The following property is subject to civil forfeiture:

- property knowingly or intentionally used in the commission of a crime involving Theft, Trafficking, or the Unlawful Possession of Commercial Metal Property; and
- property acquired by proceeds traceable to the knowing or intentional commission of a crime, not less than a class C felony, involving Theft, Trafficking, or the Unlawful Possession of Commercial Metal Property.

Fifty percent of the proceeds for any property forfeited and sold shall be remitted to the victim of the crime, with the remainder being used for law enforcement activity.

Partial Veto: The Governor vetoed section 34, which provided that if \$1.5 million for the purposes of this act is not provided by June 30, 2013, in the omnibus appropriations act, this act is null and void.

FUEL USAGE OF PUBLICLY OWNED VEHICLES, VESSELS, AND CONSTRUCTION EQUIPMENT

Chapter 328 (ESB 5099)

Effective date: July 28, 2013

By the year 2015, all state agencies must satisfy 100 percent of their fuel needs for all vessels, vehicles, and construction equipment from electricity or biofuels; by the year 2018, all cities and counties must do the same.

Amends RCW 43.19.648 to require the Department of Commerce to convene an advisory committee to assist with the development of rules for implementation. Such rules must, among other things, provide the authority for local government subdivisions to elect to exempt police, fire, and other emergency response vehicles, including utility vehicles frequently used for emergency response, from the fuel usage requirement.

EMPLOYEE AND JOB APPLICANT SOCIAL NETWORKING ACCOUNTS AND PROFILES

Chapter 330 (SSB 5211)

Effective date: July 28, 2013

Adds a new section to chapter 49.44 RCW that generally prohibits employers from requesting, requiring, or otherwise coercing an employee or job applicant to disclose information relating to his or her personal social networking login information, access his or her personal social networking account in the employer's presence, add a person to the list of contacts associated with his or her personal social networking account, or alter the settings on his or her personal social networking account that affect a third party's ability to view the contents of the account. Prohibits employers from taking adverse action against an employee or applicant because the employee or applicant refuses to do the above.

It does not apply to internal administrative investigations of misconduct, or information accessible on a publicly viewable social media page.

Also creates a civil cause of action for violation.

CONFIDENTIAL LICENSE PLATES, DRIVERS' LICENSES, IDENTICARDS, AND VESSEL REGISTRATIONS

Chapter 336 (SSB 5591)

Effective Date: May 21, 2013

The Final Bill report provides the following summary:

[The Department of Licensing] DOL is granted authority to issue confidential driver licenses and identicards to commissioned officers of law enforcement agencies for undercover or covert law enforcement activities. Confidential drivers' licenses and identicards may be used only during an undercover or covert law enforcement operation and the holder must return the confidential document to DOL within 30 days of the end of their undercover or covert operation or upon the officer's retirement, termination, dismissal, change in job assignment, or leave from the agency.

Records related to confidential vessel registration, license plates, drivers' licenses, and identicards are exempt from public disclosure. However, the total number of confidential vessel registration, license plates, drivers' licenses, and identicards that have been issued will still be available for release. Upon request by the Legislature, DOL must provide a report summarizing information about the confidential drivers' licenses, identicards, license plates, and vehicle and vessel registration programs.

DOL must perform background investigations on employees who have access to confidential vessel registration, license plates, drivers' licenses, and identicards.

ACTS PASSED DURING THE 2013 SECOND SPECIAL SESSION

REGULATING THE USE OF OFF-ROAD VEHICLES IN CERTAIN AREAS

Chapter 23, Second Special Session (ESHB 1632)

Effective date: July 28, 2013
(section 3 July 1, 2015)

The Engrossed Substitute House Bill Report provides the following brief summary:

- Establishes a definition for "wheeled all-terrain vehicle" along with operator, equipment, and registration requirements and related exemptions.
- Establishes locations in which the wheeled all-terrain vehicle may be operated.
- Implements new tag and tab requirements for wheeled all-terrain vehicles.
- Establishes documentation for required equipment installations for a wheeled all-terrain vehicle.
- Established operator requirements for wheeled all-terrain vehicles.
- Creates the Multiuse Roadway Safety Account.
- Clarifies that local land management requirements must be followed and implements a process for the operator to receive a citation with or without law enforcement presence.
- Clarifies when off-road vehicle (ORV) registrations and decals are not required for ORVs.
- Increases the age of a person from 13 to 16 years of age that may operate an ORV on or across a highway or non-highway road.
- Adds definitions for "primitive road" to the definitions of a non-highway road, direct supervision, and emergency management.
- Designates that a county by ordinance may designate a road or highway within its boundaries to be suitable for use by ORVs.

- Designates that a city or town with less than 3,000 in population may, by ordinance, designate a road or highway to be suitable for use by ORVs.

DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS

Chapter 35, Second Special Session (E2SSB 5912)

**Effective date: September 28, 2013
(sections 27, 28, 30-32 January 1, 2014)**

The Final Bill Report provides the following Brief Summary:

- Requires sobriety monitoring for repeat offenders that commit Driving Under the Influence (DUI) and Physical Control (PC) offenses.
- Requires community custody supervision for felony level DUI offenders.
- Modifies provisions on negligent driving, mandatory arrests, and booking.
- Changes ignition interlock device (IID) requirements, requires IIDs as a condition of release, provides for consideration of vehicle forfeiture for IID violations, and authorizes DUI vehicle drivers to take IID re-tests.
- Addresses [by increasing penalties] impaired drivers who have a child passenger in the vehicle or drive the wrong way on a multi-lane roadway.
- Eliminates requirement to mark driver licenses of DUI offenders, and amends restriction on commercial driver licenses.
- Establishes an Impaired Driving Work Group.

Additional information of interest to officers includes:

Arrest:

Amends RCW 10.31.100 by: 1) removing the presence requirement for violations of RCW 46.61.503 (minor DUI) and RCW 46.25.110 (commercial vehicle DUI) – officers may now make arrests when these offenses are committed outside of their presence; and 2) creating a **mandatory arrest** provision for violations of RCW 46.61.502 (DUI) and .504 (physical control) when the officer knows that the person has a prior offense as defined in RCW 46.61.5055 within ten years.

Implied Consent:

Amends RCW 46.20.308 (implied consent) in light of Missouri v. McNeely, ___U.S. ___, 2013 WL 1628934 (April 17, 2013) **June 13 LED:03**. The option for performing a blood draw when someone is arrested for DUI, physical control, minor DUI and incapable of providing a breath test or being treated in a hospital, etc., is removed. Implied consent is now limited to breath tests. If following arrest and after receipt of the implied consent warnings, a person declines to provide a breath sample, no test shall be given except as authorized by a search warrant. A person who refuses the breath test following implied consent warnings will still face license suspension and the admission of his or her refusal at trial.

Additionally, if an individual is unconscious or is under arrest for felony DUI or physical control, vehicular homicide, vehicular assault, or for DUI resulting from an accident in which there has been serious bodily injury to another person, a breath or blood test may only be administered without the consent of the individual so arrested pursuant to a search warrant, a valid waiver of the warrant requirement, or when exigent circumstances exist.

Commercial Motor Vehicles:

Amends RCW 46.25.120 to require law enforcement to complete Department of Licensing documentation whenever a commercial motor vehicle driver is found to have any measurable amount of THC concentration in his or her blood.

Amends RCW 46.25.110 (commercial vehicle DUI) to add an “any measurable amount of THC concentration” alternative.

Negligent Driving in the First Degree:

Amends RCW 46.61.5249 (negligent driving in the first degree) to include marijuana or any drug, rather than just illegal drugs.

LED EDITORIAL COMMENT: We think that the amendments to the implied consent statute, which essentially eliminate nonconsensual blood draws absent a warrant or exigent circumstances, should remedy any issues arising from McNeely. (For additional discussion of McNeely see the June 2013 LED beginning at page 5.) We remind officers that a template for search warrants for blood is available on the Washington Association for Prosecuting Attorneys (WAPA) website: <http://www.waprosecutors.org/docs/Search-Warrant-for-Blood-2011%20.pdf>. Finally, as always we encourage officers to consult with their assigned agency legal advisors and/or local prosecutors in determining what procedures to follow.

2013 WASHINGTON LEGISLATIVE UPDATE SUBJECT MATTER INDEX

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