

**Article XIII, section 3 OF THE JANUARY 28, 1889  
WASHINGTON STATE CONSTITUTION AS APPROVED BY  
THE 50<sup>th</sup> CONGRESS 2<sup>nd</sup> Session – SENATE – MIS. DOC. No. 55  
GRANTS ALL WASHINGTON CITIZENS A  
STATE CONSTITUTIONAL RIGHT TO TRAVEL**

**It is undisputed that the Congressional Records clearly show that the 1878 Walla Walla  
Constitution was approved by the 50<sup>TH</sup> CONGRESS 2d Session.– SENATE – MIS. DOC. No. 55.**

on January 28, 1889, which grants all Washington Citizens the State Constitutional Right to Travel  
without a Title 49 CFR § 383.153 (a) Commercial Drivers License at article XIII, section 3 which

reads: **“SEC. 3. ALL RAILROADS IN THIS STATE SHALL BE DEEMED PUBLIC  
HIGHWAYS, AND SHALL BE FREE TO ALL PERSONS FOR THE TRANSPORTATION  
OF THEIR PERSONS AND PROPERTY, . . .”** See also RCW 47.04.050 & RCW 47.42.290.

Article II, section 1 of the January 28, 1889 valid Washington State Constitution reads:

**“THE COLUMBIA RIVER AND THE NAVIGABLE WATERS OF THE STATE  
SHALL BE . . . COMMON HIGHWAYS AND FOREVER FREE, . . . AS WELL TO THE  
INHABITANTS OF THE STATE, AS TO THE CITIZENS OF THE UNITED STATES  
WITHOUT ANY TAX, DUTY OR IMPOST THEREFORE.”** See also RCW 79.01.340.

The Northwest Ordinance is a Treaty and is the Supreme Law of the Land states in part:

**“...THE WATERWAYS SHALL FOREVER BE FREE THE SAME AS THE  
HIGHWAYS.”**

**THE TERRITORIAL CODE OF 1881 CHAPTER CCXXII. LAW OF TRAVEL ON  
PUBLIC HIGHWAYS, SECTION 3030 clearly says that I have to keep to the right side of the road:**

**“SECTION 3030. LAW OF THE ROAD: GO TO THE RIGHT.  
WHENEVER ANY PERSONS DRIVING ANY VEHICLE SHALL MEET ON ANY PUBLIC  
HIGHWAY IN THIS TERRITORY whether owned or kept by a corporation or private person, THE  
PERSONS SO MEETING SHALL SEASONABLY TURN THEIR VEHICLES TO THE RIGHT  
OF THE CENTER OF THE ROAD, so as to permit each vehicle to pass without interfering with or  
interrupting the other.”** Gerberding v. Munro, 134 Wn.2d 188, 949 P.2d 1366 [No. 65059-4. En Banc.]

In 1915, Washington’s “Business Law for Business Men” stated:

**“SECTION 1351.–BABBIT’S BOOK – “SECTION 1364.– THE LAW OF THE ROAD.–  
HIGHWAYS ARE PUBLIC ROADS . . . WHICH EVERY CITIZEN HAS A RIGHT TO USE . . .  
THE USE OF THE HIGHWAYS . . . IS NOT A PRIVILEGE . . . BUT A RIGHT, . . .”**

**RCW 47.04.010, RCW 46.09.020, RCW 36.75.010 (11), WAC 296-32-210 (46), WAC**

**296-45-035 and Pierce County Code 11.02.030 defines . . . "PUBLIC HIGHWAY" . . . as:**

"[E]very way, lane, road, street, boulevard, and every way or place in the state of Washington **OPEN AS A MATTER OF RIGHT TO PUBLIC VEHICULAR TRAVEL** both inside and outside the limits of incorporated cities and towns. (Emphasis added.) R.C.W. 36.75.010 (6) defines "county road" as : [E]very highway or part thereof, outside the limits of incorporated cities and towns and which has not been designated as a state highway." See also AGO 59-60 No. 88 (December 10, 1959); AGO 63-64 No. 25 (May 23, 1963); AGO 65-66 No. 121 (November 29, 1966); AGO 1996 No. 17 (September 26, 1996). See State ex rel. Telegraph Co. v. Spokane., 24 Wash. 53-62 (February 1901); State ex rel. Oregon-Washington R.R. & Navigation Co. v. Walla Walla Cy., 5 Wn.2d 95, 104 P.2d 764 (1940); Roediger v. Cullen, 26 Wn. (2d) 690, 175 P. 2d 669 (1946); State ex rel. York v. Board of County Commissioners, 28 Wn.2d 891, 184 P.2d 577 (1947); Hall v. McDowell, 6 Wn. App. 941, 945, 497 P.2d 596 (May 11, 1972); Allemeier v. University, 42 Wn. App. 465, 469, 470, 712 P.2d 306 (December 30, 1985).

"Although judicial recognition of the right to travel as being a constitutionally protected fundamental right is of recent development, its existence can no longer be questioned. Dunn v. Blumstein, 405 U.S. 330, 31 L.Ed. 2d 274, 92 S. Ct. 995 (1972); Shapiro v. Thompson, 394 U.S. 618, 22 L.Ed. 2d 600, 89 S. Ct. 1322 (1969)." **Seattle v. Larkin, 10 Wn.App. 205, 516 P.2d 1083 (December 1973)**; "The right to travel is a fundamental right protected by the equal protection clause of the Fourteenth Amendment. Dunn v. Blumstein, 405 U.S. 330, 31 L.Ed. 2d 274, 92 S.Ct. 995 (1972); Eggert v. Seattle, 81 Wn.2d 840, 505 P.2d 801 (1973)." **Halsted v. Sallee, 31 Wn.App. 193, 639 P.2d 877 (January 21, 1982)**.

"**It is well settled that the United States Constitution protects an individual's right to travel**, although it is not always clear which constitutional provision affords the protection. See Califano v. Aznavorian, 439 U.S. 170, 175, 58 L.Ed. 2d 435, 99 S. Ct. 471 (1978); United States v. Guest, 383 U.S. 745, 16 L. Ed. 2d 239, 86 S. Ct. 1170 (1966); Kent v. Dulles, 357 U.S. 116, 2 L. Ed. 2d 1204, 78 S. Ct. 1113 (1958). . . . Edwards v. California, 314 U.S. 160, 177, 86 L. Ed. 119, 62 S. Ct. 164 (1941); Twining v. New Jersey, 211 U.S. 78, 97, 53 L. Ed. 97, 29 S. Ct. 14 (1908); William v. Fears, 179 U.S. 270, 274, 45 L. Ed. 186, 21 S. Ct. 128 (1900); Crandal v. Nevada, 73 U.S. (6 Wall.) 35, 18 L. Ed. 744 (1867). **This fundamental constitutional right applies to both interstate and intrastate travel.** Compare Shapiro v. Thompson, 394 U.S. 618, 22 L.Ed. 2d 600, 89 S. Ct. 1322 (1969) (interstate travel) with Macias v. Department of Labor & Indus., 100 Wn.2d 263, 272, 668 P.2d 1278 (1983) and Eggert v. Seattle, 81 Wn.2d 840, 505 P.2d 801 (1973) (intrastate travel). Freedom of movement is at the heart of our scheme of values, for it may be as keen as an interest of the individual as the choice of what he reads, says, eats or wears." **Spokane v. Port, 43 Wn.App. 273 (March 27, 1986)**; Carter v. University, 85 Wn.2d 391, 536 P.2d 618 (June 5, 1975). See also **Moen v. Erlandson, 80 Wn.2d 775, 498 P.2d 849 (June 22<sup>nd</sup>, 1972)**.

"The public has a paramount right to the use of the streets in all its parts. That right is the right of all persons to pass over it freely and without impediment whenever they have occasion to do so." **James v. Burchett, 15 Wn.(2d) 119 (October 14<sup>th</sup>, 1942)**; Bellingham v. Cigna, 44 Wash. 397 (November 1906); Robertson vs. Department of Public Works, 180 Wash. 133 (Dec. 21, 1934); Hadfield v. Lundin, 98 Wash. 657, 168 P. 516 (1917); State ex rel. Schafer v. Spokane., 109 Wash. 360-365, 186 P. 864, 865 (January 1920); Adams v. City of Pocatello, 91 Idaho 99, 416 P.2d 46 (1966); 25 Am. Jur. 339, section 2.

Both **RCW 46.25.050 (1)(c) & WAC 308-100-210** provide that if I declare my family car to be a . . . "**RECREATIONAL VEHICLE**" . . . used solely for non-commercial purpose, that I am exempt from having to have a drivers license. See also TAX CODE 95 - "RECREATIONAL USE."

Contact Tribal Court Lawyer Luis Ewing at (253) 226-3741 or <[rcwcodebuster@gmail.com](mailto:rcwcodebuster@gmail.com)> or <[rcwcodebuster@yahoo.com](mailto:rcwcodebuster@yahoo.com)> or <[rcwcodebuster@aol.com](mailto:rcwcodebuster@aol.com)> or <[rcwcodebuster@mail.com](mailto:rcwcodebuster@mail.com)>