

HOUSE BILL REPORT

HB 2845

*As Reported By House Committee on:
Commerce & Labor*

Title: An act relating to overtime work by automobile salespersons.

Brief Description: Modifying overtime compensation for automobile salespersons.

Sponsor(s): Representatives Heavey, Lisk and Ludwig.

Brief History:

Reported by House Committee on:
Commerce & Labor, February 7, 1992, DPS.

**HOUSE COMMITTEE ON
COMMERCE & LABOR**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 11 members: Representatives Heavey, Chair; G. Cole, Vice Chair; Fuhrman, Ranking Minority Member; Lisk, Assistant Ranking Minority Member; Franklin; Jones; R. King; O'Brien; Prentice; Vance; and Wilson.

Staff: Chris Cordes (786-7117).

Background:

Under federal and state law, employers are required to pay overtime compensation to covered employees who work more than 40 hours in a work week. Federal law exempts automobile and truck salespersons working for non-manufacturing businesses primarily selling vehicles to ultimate purchasers. Washington law provides exemptions for salespersons, but only if the salesperson primarily works outside the employer's place of business.

In 1986, the Department of Labor and Industries authorized the automobile dealers to pay overtime for salespersons by paying either commissions or one and one-half times the base rate of pay established for a 40 hour week, whichever was greater. Recently the department has indicated that this method of compensation is not permitted under the Washington law.

Summary of Substitute Bill: Employers of commissioned salespersons primarily engaged in the business of selling automobiles and trucks to the ultimate purchaser do not violate state overtime compensation requirements with respect to these salespeople if the salespeople are paid the greater of (1) compensation at the hourly rate for hours up to 40 hours per week, plus overtime at one and one-half times the hourly rate, or (2) commissions, salaries, or salaries plus commission.

Substitute Bill Compared to Bill: The substitute bill deletes the exemption from the overtime requirements for commissioned automobile and truck salespersons and provides, instead, that these employees may be paid the greater of (1) the hourly rate for hours up to 40 hours per week, plus overtime at one and one-half times the hourly rate, or (2) commissions, salaries, or salaries plus commission. The substitute bill also makes technical changes to the statute and reorganizes the subsections.

Fiscal Note: Requested February 5, 1992.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Most car salespeople work substantial overtime. This allows them the flexibility to set appointments and make deliveries during the evening and on weekends. In recognition of this practice, the Department of Labor and Industries permitted the dealers to pay salespeople either at a base rate, with overtime, or on a commission basis, whichever was the greater pay. Recently, the department has indicated that this policy will not be allowed. The dealers and salespeople need to have flexibility on this issue. Federal law exempts these salespeople from overtime coverage.

Testimony Against: None.

Witnesses: Janet Cunningham, Washington State Auto Dealers Association.