

HOUSE BILL REPORT

HB 1893

As Reported By House Committee On:
Transportation

Title: An act relating to motor vehicle dealers' buyer's agents relationships.

Brief Description: Regulating motor vehicle dealers' buyer's agents relationships.

Sponsors: Representatives Zellinsky, Forner, R. Fisher and Kremen.

Brief History:

Reported by House Committee on:
Transportation, February 24, 1993, DPS.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 25 members: Representatives R. Fisher, Chair; Jones, Vice Chair; Schmidt, Ranking Minority Member; Mielke, Assistant Ranking Minority Member; Brough; Brumsickle; Cothorn; Eide; Finkbeiner; Forner; Hansen; Heavey; Horn; Johanson; J. Kohl; R. Meyers; Miller; H. Myers; Orr; Patterson; Quall; Sheldon; Shin; Wood; and Zellinsky.

Staff: Brad Lovaas (786-7307).

Background: In the mid 1980s, a new industry began to emerge in Washington which was designed to assist consumers in locating and purchasing motor vehicles which fit their income and transportation needs. The thrust of the industry was to utilize expertise in automobile sales to eliminate hassles in car buying for consumers. The "buyer's agent" acts as the representative of the buyer and negotiates or arranges for the purchase of a vehicle. The buyer's agent does not take ownership interest in the vehicle. The customer's contact with the selling dealership is minimal, generally limited to delivery of the vehicle and completing paperwork necessary to effect transfer of ownership.

The buyer's agent provides a service and is compensated for that service by the consumer. Compensation received by the buyer's agent isn't derived from the sale of a vehicle, but is derived from the services provided.

Some buyer's agents have been accepting fees from the new vehicle dealers which are not disclosed to the consumer. This places vehicle dealers in the position of providing a fee (kickback) or losing the sale to a dealer who will pay the fee to a buyer's agent.

The Department of Licensing estimates that there are approximately 25 buyer's agents operating in this state, of which 15 are currently licensed as vehicle dealer/buyer agents.

Summary of Substitute Bill: A definition of "buyer's agent" is created in motor vehicle dealer statutes. A buyer's agent is any person employed by the consumer to arrange for or to negotiate the purchase of a new motor vehicle on behalf of the consumer. Buyer's agents would be licensed by the Department of Licensing.

Under the vehicle dealer penalty section, three new activities are made illegal. It would be illegal 1) for a new vehicle dealer to pay or receive a fee in connection with the purchase or sale of a new motor vehicle; 2) for a buyer's agent to pay or receive a fee from a new motor vehicle dealer in connection with the purchase or sale of a new motor vehicle; and 3) for a buyer's agent to purchase a new motor vehicle through an out-of-state dealer without disclosing in writing to the customer that the new vehicle would not be subject to this state's lemon law provisions.

Substitute Bill Compared to Original Bill: An incorrect statutory citation is amended. The state's Consumer Protection Act is applied to the three activities made illegal by this bill.

Fiscal Note: Requested February 16, 1993.

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

Testimony For: The Department of Licensing will be allowed to more closely regulate buyer's agents. Consumers will be more confident that a buyer's agent is working on their behalf by outlawing kickbacks from dealers to whom buyer's agents take their clients' business.

Testimony Against: The measure is anti-competitive.

Witnesses: Jim Boldt, Washington Auto Dealers Association (pro); Art Farley, Department of Licensing (pro); and Ashly Knapp, Consumer Auto Related Services (con).