
HOUSE BILL 2435

State of Washington

53rd Legislature

1994 Regular Session

By Representatives Zellinsky and King

Read first time 01/14/94. Referred to Committee on Transportation.

1 AN ACT Relating to unlicensed vehicle dealers; amending RCW
2 46.70.021; adding a new section to chapter 46.70 RCW; and prescribing
3 penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 46.70.021 and 1993 c 307 s 4 are each amended to read
6 as follows:

7 It is unlawful for any person, firm, or association to act as a
8 vehicle dealer or vehicle manufacturer, to engage in business as such,
9 serve in the capacity of such, advertise himself, herself, or
10 themselves as such, solicit sales as such, or distribute or transfer
11 vehicles for resale in this state, without first obtaining and holding
12 a current license as provided in this chapter, unless the title of the
13 vehicle is in the name of the seller. It is unlawful for any person
14 other than a licensed vehicle dealer to display a vehicle for sale
15 unless the registered owner or legal owner is the displayer or holds a
16 notarized power of attorney. A person or firm engaged in buying and
17 offering for sale, or buying and selling five or more vehicles in a
18 twelve-month period, or in any other way engaged in dealer activity
19 without holding a vehicle dealer license, is guilty of a gross

1 misdemeanor, and upon conviction is subject to a fine of up to five
2 thousand dollars for each violation and up to one year in jail. A
3 second offense is a class C felony punishable under chapter 9A.20 RCW.
4 A violation of this section is also a per se violation of chapter 19.86
5 RCW and is considered a deceptive practice.

6 Upon the issuance of a final cease and desist order under RCW
7 46.70.115, the director may assess a civil monetary penalty of up to
8 one thousand dollars per violation against a person or firm found in
9 violation of this section. Civil monetary penalties may also be
10 assessed equal to the amount of sales tax and motor vehicle excise tax
11 owed on each vehicle identified in the final order to cease and desist
12 that the person or firm purchased, failed to properly apply for title
13 under chapter 46.12 RCW, and subsequently sold. Monetary penalties
14 collected under this section shall be deposited in the motor vehicle
15 fund. If the monetary penalties assessed are not paid to the
16 department within thirty days after service of the final order to cease
17 and desist, the department may not renew the driver's license of the
18 person named in the final order to cease and desist until payment is
19 made. The department may renew the driver's license of the person
20 named in the final order to cease and desist if the person is abiding
21 by a penalty payment schedule agreed to by the person and the
22 department.

23 The department of licensing, the Washington state patrol, the
24 attorney general's office, and the department of revenue shall
25 cooperate in the enforcement of this section. A distributor, factory
26 branch, or factory representative shall not be required to have a
27 vehicle manufacturer license so long as the vehicle manufacturer so
28 represented is properly licensed pursuant to this chapter. Nothing in
29 this chapter prohibits financial institutions from cooperating with
30 vehicle dealers licensed under this chapter in dealer sales or leases.
31 However, financial institutions shall not broker vehicles and
32 cooperation is limited to organizing, promoting, and financing of such
33 dealer sales or leases.

34 NEW SECTION. Sec. 2. A new section is added to chapter 46.70 RCW
35 to read as follows:

36 (1) In addition to other powers granted by law, the director or the
37 director's designee may enforce RCW 46.70.021 through issuance of
38 criminal citations. It is the sole duty of law enforcement agencies

1 and officers to make arrests. The county prosecutor of the county in
2 which the violation occurred shall prosecute all actions under this
3 chapter.

4 (2) Any liability or claim that arises out of the exercise or
5 alleged exercise of authority under subsection (1) of this section
6 rests with the department unless the director or the director's
7 designee acts under the direction and control of another agency or
8 unless the liability is otherwise assumed under a written agreement
9 between the department of licensing and another agency.

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