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HOUSE BILL 1997

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State of Washington

55th Legislature

1997 Regular Session

By Representatives B. Thomas and Dyer

Read first time 02/18/97. Referred to Committee on Transportation Policy & Budget.

1 AN ACT Relating to disclosure of branded titles to vehicle  
2 purchasers; amending RCW 46.70.101; and prescribing penalties.

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

4 **Sec. 1.** RCW 46.70.101 and 1996 c 282 s 3 are each amended to read  
5 as follows:

6 The director may by order deny, suspend, or revoke the license of  
7 any vehicle dealer or vehicle manufacturer or, in lieu thereof or in  
8 addition thereto, may by order assess monetary penalties of a civil  
9 nature not to exceed one thousand dollars per violation, if the  
10 director finds that the order is in the public interest and that the  
11 applicant or licensee:

12 (1) In the case of a vehicle dealer:

13 (a) The applicant or licensee, or any partner, officer, director,  
14 owner of ten percent or more of the assets of the firm, or managing  
15 employee:

16 (i) Was the holder of a license issued pursuant to this chapter,  
17 which was revoked for cause and never reissued by the department, or  
18 which license was suspended for cause and the terms of the suspension

1 have not been fulfilled or which license was assessed a civil penalty  
2 and the assessed amount has not been paid;

3 (ii) Has been adjudged guilty of a crime which directly relates to  
4 the business of a vehicle dealer and the time elapsed since the  
5 adjudication is less than ten years, or suffering any judgment within  
6 the preceding five years in any civil action involving fraud,  
7 misrepresentation, or conversion. For the purposes of this section,  
8 adjudged guilty shall mean in addition to a final conviction in either  
9 a state or municipal court, an unvacated forfeiture of bail or  
10 collateral deposited to secure a defendant's appearance in court, the  
11 payment of a fine, a plea of guilty, or a finding of guilt regardless  
12 of whether the sentence is deferred or the penalty is suspended;

13 (iii) Has knowingly or with reason to know made a false statement  
14 of a material fact in his application for license or any data attached  
15 thereto, or in any matter under investigation by the department;

16 (iv) Has knowingly, or with reason to know, provided the department  
17 with false information relating to the number of vehicle sales  
18 transacted during the past one year in order to obtain a vehicle dealer  
19 license plate;

20 (v) Does not have an established place of business as required in  
21 this chapter;

22 (vi) Refuses to allow representatives or agents of the department  
23 to inspect during normal business hours all books, records, and files  
24 maintained within this state;

25 (vii) Sells, exchanges, offers, brokers, auctions, solicits, or  
26 advertises a new or current model vehicle to which a factory new  
27 vehicle warranty attaches and fails to have a valid, written service  
28 agreement as required by this chapter, or having such agreement refuses  
29 to honor the terms of such agreement within a reasonable time or  
30 repudiates the same;

31 (viii) Is insolvent, either in the sense that their liabilities  
32 exceed their assets, or in the sense that they cannot meet their  
33 obligations as they mature;

34 (ix) Fails to pay any civil monetary penalty assessed by the  
35 director pursuant to this section within ten days after such assessment  
36 becomes final;

37 (x) Fails to notify the department of bankruptcy proceedings in the  
38 manner required by RCW 46.70.183;

1 (xi) Knowingly, or with reason to know, allows a salesperson  
2 employed by the dealer, or acting as their agent, to commit any of the  
3 prohibited practices set forth in subsection (1)(a) of this section and  
4 RCW 46.70.180.

5 (b) The applicant or licensee, or any partner, officer, director,  
6 owner of ten percent of the assets of the firm, or any employee or  
7 agent:

8 (i) Has failed to comply with the applicable provisions of chapter  
9 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted  
10 thereunder;

11 (ii) Has defrauded or attempted to defraud the state, or a  
12 political subdivision thereof of any taxes or fees in connection with  
13 the sale or transfer of a vehicle;

14 (iii) Has forged the signature of the registered or legal owner on  
15 a certificate of title;

16 (iv) Has purchased, sold, disposed of, or has in his or her  
17 possession any vehicle which he or she knows or has reason to know has  
18 been stolen or appropriated without the consent of the owner;

19 (v) Has willfully failed to deliver to a purchaser a certificate of  
20 ownership to a vehicle which he has sold;

21 (vi) Has committed any act in violation of RCW 46.70.090 relating  
22 to vehicle dealer license plates or manufacturer license plates;

23 (vii) Has committed any act in violation of RCW 46.70.180 relating  
24 to unlawful acts and practices;

25 (viii) Has engaged in practices inimical to the health or safety of  
26 the citizens of the state of Washington including but not limited to  
27 failure to comply with standards set by the state of Washington or the  
28 federal government pertaining to the construction or safety of  
29 vehicles;

30 (ix) Has aided or assisted an unlicensed dealer or salesperson in  
31 unlawful activity through active or passive participation in sales,  
32 allowing use of facilities, dealer license number, or by any other  
33 means;

34 (x) Converts or appropriates, whether temporarily or permanently,  
35 property or funds belonging to a customer, dealer, or manufacturer,  
36 without the consent of the owner of the property or funds; or

37 (xi) Has sold any vehicle with actual knowledge that:

38 (A) It has any of the following brands on the title:  
39 "SALVAGE/REBUILT," "JUNK," ((or)) "DESTROYED," or any other brand; or

1 (B) It has been declared totaled out by an insurance carrier and  
2 then rebuilt; or

3 (C) The vehicle title contains the specific comment that the  
4 vehicle is "rebuilt";  
5 without clearly disclosing that brand or comment in writing.

6 (c) The licensee or any partner, officer, director, or owner of ten  
7 percent or more of the assets of the firm holds or has held any such  
8 position in any other vehicle dealership licensed pursuant to this  
9 chapter which is subject to final proceedings under this section.

10 (2) In the case of a manufacturer, or any partner, officer,  
11 director, or majority shareholder:

12 (a) Was or is the holder of a license issued pursuant to this  
13 chapter which was revoked for cause and never reissued by the  
14 department, or which license was suspended for cause and the terms of  
15 the suspension have not been fulfilled, or which license was assessed  
16 a civil penalty and the assessed amount has not been paid;

17 (b) Has knowingly or with reason to know, made a false statement of  
18 a material fact in his application for license, or any data attached  
19 thereto, or in any matter under investigation by the department;

20 (c) Has failed to comply with the applicable provisions of chapter  
21 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted  
22 thereunder;

23 (d) Has defrauded or attempted to defraud the state or a political  
24 subdivision thereof, of any taxes or fees in connection with the sale  
25 or transfer of a vehicle;

26 (e) Has purchased, sold, disposed of, or has in his possession, any  
27 vehicle which he knows or has reason to know has been stolen or  
28 appropriated without the consent of the owner;

29 (f) Has committed any act in violation of RCW 46.70.090 relating to  
30 vehicle dealer license plates and manufacturer license plates;

31 (g) Has committed any act in violation of RCW 46.70.180 relating to  
32 unlawful acts and practices;

33 (h) Sells or distributes in this state or transfers into this state  
34 for resale, any new or unused vehicle to which a warranty attaches or  
35 has attached and refuses to honor the terms of such warranty within a  
36 reasonable time or repudiates the same;

37 (i) Fails to maintain one or more resident employees or agents to  
38 provide service or repairs to vehicles located within the state of  
39 Washington only under the terms of any warranty attached to new or

1 unused vehicles manufactured and which are or have been sold or  
2 distributed in this state or transferred into this state for resale  
3 unless such manufacturer requires warranty service to be performed by  
4 all of its dealers pursuant to a current service agreement on file with  
5 the department;

6 (j) Fails to reimburse within a reasonable time any vehicle dealer  
7 within the state of Washington who in good faith incurs reasonable  
8 obligations in giving effect to warranties that attach or have attached  
9 to any new or unused vehicle sold or distributed in this state or  
10 transferred into this state for resale by any such manufacturer;

11 (k) Engaged in practices inimical to the health and safety of the  
12 citizens of the state of Washington including but not limited to  
13 failure to comply with standards set by the state of Washington or the  
14 federal government pertaining to the construction and safety of  
15 vehicles;

16 (l) Is insolvent either in the sense that his or her liabilities  
17 exceed his or her assets or in the sense that he or she cannot meet his  
18 or her obligations as they mature;

19 (m) Fails to notify the department of bankruptcy proceedings in the  
20 manner required by RCW 46.70.183.

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