
SUBSTITUTE SENATE BILL 5640

State of Washington

57th Legislature

2001 Regular Session

By Senate Committee on Transportation (originally sponsored by Senators Benton and T. Sheldon; by request of Department of Licensing)

Read first time 03/08/2001. Referred to Committee on .

1 AN ACT Relating to licensing of motor vehicle dealers and
2 manufacturers; amending RCW 46.70.005, 46.70.011, 46.70.051, 46.70.090,
3 46.70.101, 46.70.120, 46.70.122, 46.70.130, 46.70.180, and 46.70.900;
4 and reenacting and amending RCW 46.70.041.

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

6 **Sec. 1.** RCW 46.70.005 and 1986 c 241 s 1 are each amended to read
7 as follows:

8 The legislature finds and declares that the distribution ~~((and))~~,
9 sale, and lease of vehicles in the state of Washington vitally affects
10 the general economy of the state and the public interest and the public
11 welfare, and that in order to promote the public interest and the
12 public welfare, and in the exercise of its police power, it is
13 necessary to regulate and license vehicle manufacturers, distributors,
14 or wholesalers and factory or distributor representatives, and to
15 regulate and license dealers of vehicles doing business in Washington,
16 in order to prevent frauds, impositions, and other abuses upon its
17 citizens and to protect and preserve the investments and properties of
18 the citizens of this state.

1 **Sec. 2.** RCW 46.70.011 and 1998 c 46 s 1 are each amended to read
2 as follows:

3 As used in this chapter:

4 (1) "Vehicle" means and includes every device capable of being
5 moved upon a public highway and in, upon, or by which any persons or
6 property is or may be transported or drawn upon a public highway,
7 excepting devices moved by human or animal power or used exclusively
8 upon stationary rails or tracks.

9 (2) "Motor vehicle" means every vehicle which is self-propelled and
10 every vehicle which is propelled by electric power obtained from
11 overhead trolley wires, but not operated upon rails, and which is
12 required to be registered and titled under Title 46 RCW, Motor
13 Vehicles.

14 (3) "Vehicle dealer" means any person, firm, association,
15 corporation, or trust, not excluded by subsection (4) of this section,
16 engaged in the business of buying, selling, listing, exchanging,
17 offering, brokering, leasing with an option to purchase, auctioning,
18 soliciting, or advertising the sale of new or used vehicles, or
19 arranging or offering or attempting to solicit or negotiate on behalf
20 of others, a sale, purchase, or exchange of an interest in new or used
21 motor vehicles, irrespective of whether the motor vehicles are owned by
22 that person. Vehicle dealers shall be classified as follows:

23 (a) A "motor vehicle dealer" is a vehicle dealer that deals in new
24 or used motor vehicles, or both;

25 (b) A "mobile home and travel trailer dealer" is a vehicle dealer
26 that deals in mobile homes, park trailers, or travel trailers, or more
27 than one type of these vehicles;

28 (c) A "miscellaneous vehicle dealer" is a vehicle dealer that deals
29 in motorcycles or vehicles other than motor vehicles or mobile homes
30 and travel trailers or any combination of such vehicles.

31 (4) The term "vehicle dealer" does not include, nor do the
32 licensing requirements of RCW 46.70.021 apply to, the following
33 persons, firms, associations, or corporations:

34 (a) Receivers, trustees, administrators, executors, guardians, or
35 other persons appointed by, or acting under a judgment or order of, any
36 court; or

37 (b) Public officers while performing their official duties; or

38 (c) Employees of vehicle dealers who are engaged in the specific
39 performance of their duties as such employees; or

1 (d) Any person engaged in an isolated sale of a vehicle in which
2 that person is the registered or legal owner, or both, thereof; or

3 (e) Any person, firm, association, corporation, or trust, engaged
4 in the selling of equipment other than vehicles, subject to
5 registration, used for agricultural or industrial purposes; or

6 (f) A real estate broker licensed under chapter 18.85 RCW, or an
7 affiliated licensee, who, on behalf of another negotiates the purchase,
8 sale, lease, or exchange of a manufactured or mobile home in
9 conjunction with the purchase, sale, exchange, rental, or lease of the
10 land upon which the manufactured or mobile home is, or will be,
11 located; or

12 (g) Owners who are also operators of the special highway
13 construction equipment or of the highway construction equipment for
14 which a vehicle license and display vehicle license number plate is
15 required as defined in RCW 46.16.010; or

16 (h) Any bank, trust company, savings bank, mutual savings bank,
17 savings and loan association, credit union, and any parent, subsidiary,
18 or affiliate thereof, authorized to do business in this state under
19 state or federal law with respect to the sale or other disposition of
20 a motor vehicle owned and used in their business; or with respect to
21 the acquisition and sale or other disposition of a motor vehicle in
22 which the entity has acquired an interest as a lessor, lessee, or
23 secured party.

24 (5) "Vehicle salesperson" means any person who for any form of
25 compensation sells, auctions, leases with an option to purchase, or
26 offers to sell or to so lease vehicles on behalf of a vehicle dealer.

27 (6) "Department" means the department of licensing, which shall
28 administer and enforce the provisions of this chapter.

29 (7) "Director" means the director of licensing.

30 (8) "Manufacturer" means any person, firm, association,
31 corporation, or trust, resident or nonresident, who manufactures or
32 assembles new and unused vehicles or remanufactures vehicles in whole
33 or in part and further includes the terms:

34 (a) "Distributor," which means any person, firm, association,
35 corporation, or trust, resident or nonresident, who in whole or in part
36 offers for sale, sells, or distributes any new and unused vehicle to
37 vehicle dealers or who maintains factory representatives.

38 (b) "Factory branch," which means a branch office maintained by a
39 manufacturer for the purpose of selling or offering for sale, vehicles

1 to a distributor, wholesaler, or vehicle dealer, or for directing or
2 supervising in whole or in part factory or distributor representatives,
3 and further includes any sales promotion organization, whether a
4 person, firm, or corporation, which is engaged in promoting the sale of
5 new and unused vehicles in this state of a particular brand or make to
6 vehicle dealers.

7 (c) "Factory representative," which means a representative employed
8 by a manufacturer, distributor, or factory branch for the purpose of
9 making or promoting for the sale of their vehicles or for supervising
10 or contracting with their dealers or prospective dealers.

11 (9) "Established place of business" means a location meeting the
12 requirements of RCW 46.70.023(1) at which a vehicle dealer conducts
13 business in this state.

14 (10) "Principal place of business" means that dealer firm's
15 business location in the state, which place the dealer designates as
16 their principal place of business.

17 (11) "Subagency" means any place of business of a vehicle dealer
18 within the state, which place is physically and geographically
19 separated from the principal place of business of the firm or any place
20 of business of a vehicle dealer within the state, at which place the
21 firm does business using a name other than the principal name of the
22 firm, or both.

23 (12) "Temporary subagency" means a location other than the
24 principal place of business or subagency within the state where a
25 licensed vehicle dealer may secure a license to conduct the business
26 and is licensed for a period of time not to exceed ten days for a
27 specific purpose such as auto shows, shopping center promotions, tent
28 sales, exhibitions, or similar merchandising ventures. No more than
29 six temporary subagency licenses may be issued to a licensee in any
30 twelve-month period.

31 (13) "Wholesale vehicle dealer" means a vehicle dealer who buys and
32 sells other than at retail.

33 (14) "Retail vehicle dealer" means a vehicle dealer who may buy and
34 sell at both wholesale and retail.

35 (15) "Listing dealer" means a used mobile home dealer who makes
36 contracts with sellers who will compensate the dealer for obtaining a
37 willing purchaser for the seller's mobile home.

38 (16) "Auction" means a transaction conducted by means of exchanges
39 between an auctioneer and the members of the audience, constituting a

1 series of oral invitations for offers for the purchase of vehicles made
2 by the auctioneer, offers to purchase by members of the audience, and
3 the acceptance of the highest or most favorable offer to purchase.

4 (17) "Auction company" means a sole proprietorship, partnership,
5 corporation, or other legal or commercial entity licensed under chapter
6 18.11 RCW that only sells or offers to sell vehicles at auction or only
7 arranges or sponsors auctions.

8 (18) "Buyer's agent" means any person, firm, partnership,
9 association, limited liability company, limited liability partnership,
10 or corporation retained or employed by a consumer to arrange for or to
11 negotiate, or both, the purchase or lease of a new motor vehicle on
12 behalf of the consumer, and who is paid a fee or receives other
13 compensation from the consumer for its services.

14 (19) "New motor vehicle" means any motor vehicle that is self-
15 propelled and is required to be registered and titled under Title 46
16 RCW, has not been previously titled to a retail purchaser or lessee,
17 and is not a "used vehicle" as defined under RCW 46.04.660.

18 **Sec. 3.** RCW 46.70.041 and 1993 c 307 s 6 and 1993 c 175 s 2 are
19 each reenacted and amended to read as follows:

20 (1) Every application for a vehicle dealer license shall contain
21 the following information to the extent it applies to the applicant:

22 (a) Proof as the department may require concerning the applicant's
23 identity, including but not limited to his or her fingerprints, the
24 honesty, truthfulness, and good reputation of the applicant for the
25 license, or of the officers of a corporation making the application;

26 (b) The applicant's form and place of organization including if the
27 applicant is a corporation, proof that the corporation is licensed to
28 do business in this state;

29 (c) The qualification and business history of the applicant and any
30 partner, officer, or director;

31 (d) The applicant's financial condition or history including a bank
32 reference and whether the applicant or any partner, officer, or
33 director has ever been adjudged bankrupt or has any unsatisfied
34 judgment in any federal or state court;

35 (e) Whether the applicant has been adjudged guilty of a crime which
36 directly relates to the business for which the license is sought and
37 the time elapsed since the conviction is less than ten years, or has
38 suffered any judgment within the preceding five years in any civil

1 action involving fraud, misrepresentation, or conversion and in the
2 case of a corporation or partnership, all directors, officers, or
3 partners;

4 (f) A business telephone with a listing in the local directory;

5 (g) The name or names of new vehicles the vehicle dealer wishes to
6 sell;

7 (h) The names and addresses of each manufacturer from whom the
8 applicant has received a franchise;

9 (i) A certificate by a representative of the department, that the
10 applicant's principal place of business and each subagency business
11 location in the state of Washington meets the location requirements as
12 required by this chapter. The certificate shall include proof of the
13 applicant's ownership or lease of the real property where the
14 applicant's principal place of business is established;

15 (j) A copy of a current service agreement with a manufacturer, or
16 distributor for a foreign manufacturer, requiring the applicant, upon
17 demand of any customer receiving a new vehicle warranty to perform or
18 arrange for, within a reasonable distance of his or her established
19 place of business, the service repair and replacement work required of
20 the manufacturer or distributor by such vehicle warranty. This
21 requirement applies only to applicants seeking to sell, to exchange, to
22 offer, to auction, to solicit, to advertise, or to broker new or
23 current-model vehicles with factory or distributor warranties;

24 (k) The class of vehicles the vehicle dealer will be buying,
25 selling, listing, exchanging, offering, brokering, leasing (~~with an~~
26 ~~option to purchase~~), auctioning, soliciting, or advertising, and which
27 classification or classifications the dealer wishes to be designated
28 as;

29 (l) Any other information the department may reasonably require.

30 (2) If the applicant is a manufacturer the application shall
31 contain the following information to the extent it is applicable to the
32 applicant:

33 (a) The name and address of the principal place of business of the
34 applicant and, if different, the name and address of the Washington
35 state representative of the applicant;

36 (b) The name or names under which the applicant will do business in
37 the state of Washington;

38 (c) Evidence that the applicant is authorized to do business in the
39 state of Washington;

1 (d) The name or names of the vehicles that the licensee
2 manufactures;

3 (e) The name or names and address or addresses of each and every
4 distributor, factory branch, and factory representative;

5 (f) The name or names and address or addresses of resident
6 employees or agents to provide service or repairs to vehicles located
7 in the state of Washington only under the terms of any warranty
8 attached to new or unused vehicles manufactured, unless such
9 manufacturer requires warranty service to be performed by all of its
10 dealers pursuant to a current service agreement on file with the
11 department;

12 (g) Any other information the department may reasonably require.

13 **Sec. 4.** RCW 46.70.051 and 1997 c 432 s 4 are each amended to read
14 as follows:

15 (1) After the application has been filed, the fee paid, and bond
16 posted, if required, the department shall, if no denial order is in
17 effect and no proceeding is pending under RCW 46.70.101, issue the
18 appropriate license, which license, in the case of a vehicle dealer,
19 shall designate the classification of the dealer. Nothing prohibits a
20 vehicle dealer from obtaining licenses for more than one
21 classification, and nothing prevents any vehicle dealer from dealing in
22 other classes of vehicles on an isolated basis.

23 (2) An auction company licensed under chapter 18.11 RCW may sell at
24 auction all classifications of vehicles under a motor vehicle dealer's
25 license issued under this chapter including motor vehicles,
26 miscellaneous type vehicles, and mobile homes and travel trailers.

27 (3) At the time the department issues a vehicle dealer license, the
28 department shall provide to the dealer a current, up-to-date vehicle
29 dealer manual that may be provided electronically setting forth the
30 various statutes and rules applicable to vehicle dealers. In addition,
31 at the time any such license is renewed under RCW 46.70.083, the
32 department shall provide the dealer with any updates or current
33 revisions to the vehicle dealer manual. These updates or current
34 revisions may be provided electronically.

35 (4) The department may contract with responsible private parties to
36 provide them elements of the vehicle data base on a regular basis. The
37 private parties may only disseminate this information to licensed
38 vehicle dealers.

1 (a) Subject to the disclosure agreement provisions of RCW 46.12.380
2 and the requirements of Executive Order 97-01, the department may
3 provide to the contracted private parties the following information:

4 (i) All vehicle and title data necessary to accurately disclose
5 known title defects, brands, or flags and odometer discrepancies;

6 (ii) All registered and legal owner information necessary to
7 determine true ownership of the vehicle and the existence of any
8 recorded liens, including but not limited to liens of the department of
9 social and health services or its successor; and

10 (iii) Any data in the department's possession necessary to
11 calculate the motor vehicle excise tax, license, and registration fees
12 including information necessary to determine the applicability of
13 regional transit authority excise and use tax surcharges.

14 (b) The department may provide this information in any form the
15 contracted private party and the department agree upon, but if the data
16 is to be transmitted over the Internet or similar public network from
17 the department to the contracted private party, it must be encrypted.

18 (c) The department shall give these contracted private parties
19 advance written notice of any change in the information referred to in
20 (a)(i), (ii), or (iii) of this subsection, including information
21 pertaining to the calculation of motor vehicle excise taxes.

22 (d) The department shall revoke a contract made under this
23 subsection (4) with a private party who disseminates information from
24 the vehicle data base to anyone other than a licensed vehicle dealer.
25 A private party who obtains information from the vehicle data base
26 under a contract with the department and disseminates any of that
27 information to anyone other than a licensed vehicle dealer is guilty of
28 a gross misdemeanor punishable under chapter 9A.20 RCW.

29 (e) Nothing in this subsection (4) authorizes a vehicle dealer or
30 any other organization or entity not otherwise appointed as a vehicle
31 licensing subagent under RCW 46.01.140 to perform any of the functions
32 of a vehicle licensing subagent so appointed.

33 **Sec. 5.** RCW 46.70.090 and 1994 c 262 s 10 are each amended to read
34 as follows:

35 (1) The department shall issue a vehicle dealer license plate which
36 shall be attached to the rear of the vehicle only and which is capable
37 of distinguishing the classification of the dealer, to vehicle dealers
38 properly licensed pursuant to this chapter and shall, upon application,

1 issue manufacturer's license plates to manufacturers properly licensed
2 pursuant to this chapter.

3 (2) The department shall issue to a vehicle dealer up to three
4 vehicle dealer license plates. After the third dealer plate is issued,
5 the department shall limit the number of dealer plates to six percent
6 of the vehicles sold during the preceding license period. For an
7 original license the vehicle dealer license applicant shall estimate
8 the first year's sales or leases. The director or director's designee
9 may waive these dealer plate issuance restrictions for a vehicle dealer
10 if the waiver both serves the purposes of this chapter and is essential
11 to the continuation of the business. The director shall adopt rules to
12 implement this waiver.

13 (3) Motor vehicle dealer license plates may be used:

14 (a) To demonstrate motor vehicles held for sale or lease when
15 operated by an individual holding a valid operator's license, if a
16 dated demonstration permit, valid for no more than seventy-two hours,
17 is carried in the vehicle at all times it is operated by any such
18 individual.

19 (b) On motor vehicles owned, held for sale or lease, and which are
20 in fact available for sale or lease by the firm when operated by an
21 officer of the corporation, partnership, or proprietorship or by their
22 spouses, or by an employee of the firm, if a card so identifying any
23 such individual is carried in the vehicle at all times it is operated
24 by such individual. Any such vehicle so operated may be used to
25 transport the dealer's own tools, parts, and equipment of a total
26 weight not to exceed five hundred pounds.

27 (c) On motor vehicles being tested for repair.

28 (d) On motor vehicles being moved to or from a motor vehicle
29 dealer's place of business for sale.

30 (e) On motor vehicles being moved to or from motor vehicle service
31 and repair facilities before sale or lease.

32 (f) On motor vehicles being moved to or from motor vehicle
33 exhibitions within the state of Washington, if any such exhibition does
34 not exceed a period of twenty days.

35 (4) Mobile home and travel trailer dealer license plates may be
36 used:

37 (a) On units hauled to or from the place of business of the
38 manufacturer and the place of business of the dealer or to and from
39 places of business of the dealer.

1 (b) On mobile homes hauled to a customer's location for set-up
2 after sale.

3 (c) On travel trailers held for sale to demonstrate the towing
4 capability of the vehicle if a dated demonstration permit, valid for
5 not more than seventy-two hours, is carried with the vehicle at all
6 times.

7 (d) On mobile homes being hauled from a customer's location if the
8 requirements of RCW 46.44.170 and 46.44.175 are met.

9 (e) On any motor vehicle owned by the dealer which is used only to
10 move vehicles legally bearing mobile home and travel trailer dealer
11 license plates of the dealer so owning any such motor vehicle.

12 (f) On vehicles being moved to or from vehicle exhibitions within
13 the state of Washington, if any such exhibition does not exceed a
14 period of twenty days.

15 (5) Miscellaneous vehicle dealer license plates may be used:

16 (a) To demonstrate any miscellaneous vehicle: PROVIDED, That:

17 (i) No such vehicle may be demonstrated on a public highway unless
18 the customer has an appropriate endorsement on his or her driver's
19 license, if such endorsement is required to operate such vehicle; and

20 (ii) A dated demonstration permit, valid for no more than seventy-
21 two hours, is carried with the vehicle at all times it is operated by
22 any such individual.

23 (b) On vehicles owned, held for sale, and which are in fact
24 available for sale, by the firm when operated by an officer of the
25 corporation, partnership, or proprietorship or by a bona fide full-time
26 employee of the firm, if a card so identifying such individual is
27 carried in the vehicle at all times it is operated by him or her.

28 (c) On vehicles being tested for repair.

29 (d) On vehicles being transported to or from the place of business
30 of the manufacturer and the place of business of the dealer or to and
31 from places of business of the dealer.

32 (e) On vehicles on which any other item sold or to be sold by the
33 dealer is transported from the place of business of the manufacturer to
34 the place of business of the dealer or to and from places of business
35 of the dealer if such vehicle and such item are purchased or sold as
36 one package.

37 (6) Manufacturers properly licensed pursuant to this chapter may
38 apply for and obtain manufacturer license plates and may be used:

1 (a) On vehicles being moved to or from the place of business of a
2 manufacturer to a vehicle dealer within this state who is properly
3 licensed pursuant to this chapter.

4 (b) To test vehicles for repair.

5 (7) Vehicle dealer license plates and manufacturer license plates
6 shall not be used for any purpose other than set forth in this section
7 and specifically shall not be:

8 (a) Used on any vehicle not within the class for which the vehicle
9 dealer or manufacturer license plates are issued unless specifically
10 provided for in this section.

11 (b) Loaned to any person for any reason not specifically provided
12 for in this section.

13 (c) Used on any vehicles for the transportation of any person,
14 produce, freight, or commodities unless specifically provided for in
15 this section, except there shall be permitted the use of such vehicle
16 dealer license plates on a vehicle transporting commodities in the
17 course of a demonstration over a period not to exceed seventy-two
18 consecutive hours from the commencement of such demonstration, if a
19 representative of the dealer is present and accompanies such vehicle
20 during the course of the demonstration.

21 (d) Used on any vehicle sold to a resident of another state to
22 transport such vehicle to that other state in lieu of a trip permit or
23 in lieu of vehicle license plates obtained from that other state.

24 (e) Used on any new vehicle unless the vehicle dealer has provided
25 the department a current service agreement with the manufacturer or
26 distributor of that vehicle as provided in RCW 46.70.041(1)(k).

27 (8) In addition to or in lieu of any sanction imposed by the
28 director pursuant to RCW 46.70.101 for unauthorized use of vehicle
29 dealer license plates or manufacturer license plates, the director may
30 order that any or all vehicle dealer license plates or manufacturer
31 license plates issued pursuant to this chapter be confiscated for such
32 period as ((he)) the director deems appropriate.

33 **Sec. 6.** RCW 46.70.101 and 1998 c 282 s 7 are each amended to read
34 as follows:

35 The director may by order deny, suspend, or revoke the license of
36 any vehicle dealer or vehicle manufacturer or, in lieu thereof or in
37 addition thereto, may by order assess monetary penalties of a civil
38 nature not to exceed one thousand dollars per violation, if the

1 director finds that the order is in the public interest and that the
2 applicant or licensee:

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

4 (a) The applicant or licensee, or any partner, officer, director,
5 owner of ten percent or more of the assets of the firm, or managing
6 employee:

7 (i) Was the holder of a license issued pursuant to this chapter,
8 which was revoked for cause and never reissued by the department, or
9 which license was suspended for cause and the terms of the suspension
10 have not been fulfilled or which license was assessed a civil penalty
11 and the assessed amount has not been paid;

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

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

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

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

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

35 (vii) Sells, exchanges, offers, brokers, auctions, solicits, or
36 advertises a new or current model vehicle to which a factory new
37 vehicle warranty attaches and fails to have a valid, written service
38 agreement as required by this chapter, or having such agreement refuses
39 to honor the terms of such agreement within a reasonable time or

1 repudiates the same, except for sales by wholesale motor vehicle
2 auction dealers to franchise motor vehicle dealers of the same make
3 licensed under Title 46 RCW or franchise motor vehicle dealers of the
4 same make licensed by any other state;

5 (viii) Is insolvent, either in the sense that their liabilities
6 exceed their assets, or in the sense that they cannot meet their
7 obligations as they mature;

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

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

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

17 (xii) Fails to have a current certificate of registration with the
18 department of revenue.

19 (b) The applicant or licensee, or any partner, officer, director,
20 owner of ten percent of the assets of the firm, or any employee or
21 agent:

22 (i) Has failed to comply with the applicable provisions of chapter
23 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted
24 thereunder;

25 (ii) Has defrauded or attempted to defraud the state, or a
26 political subdivision thereof of any taxes or fees in connection with
27 the sale, lease, or transfer of a vehicle;

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

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

33 (v) Has willfully failed to deliver to a purchaser or owner a
34 certificate of ownership to a vehicle which he or she has sold or
35 leased;

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

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

1 (viii) Has engaged in practices inimical to the health or safety of
2 the citizens of the state of Washington including but not limited to
3 failure to comply with standards set by the state of Washington or the
4 federal government pertaining to the construction or safety of
5 vehicles, except for sales by wholesale motor vehicle auction dealers
6 to motor vehicle dealers and vehicle wreckers licensed under Title 46
7 RCW or motor vehicle dealers licensed by any other state;

8 (ix) Has aided or assisted an unlicensed dealer or salesperson in
9 unlawful activity through active or passive participation in sales,
10 allowing use of facilities, dealer license number, or by any other
11 means;

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

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

16 (A) It has any of the following brands on the title:
17 "SALVAGE/REBUILT," "JUNK," or "DESTROYED"; or

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

20 (C) The vehicle title contains the specific comment that the
21 vehicle is "rebuilt";

22 without clearly disclosing that brand or comment in writing.

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

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

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

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

1 (c) Has failed to comply with the applicable provisions of chapter
2 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted
3 thereunder;

4 (d) Has defrauded or attempted to defraud the state or a political
5 subdivision thereof, of any taxes or fees in connection with the sale,
6 lease, or transfer of a vehicle;

7 (e) Has purchased, sold, leased, disposed of, or has in his or her
8 possession, any vehicle which he or she knows or has reason to know has
9 been stolen or appropriated without the consent of the owner;

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

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

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

18 (i) Fails to maintain one or more resident employees or agents to
19 provide service or repairs to vehicles located within the state of
20 Washington only under the terms of any warranty attached to new or
21 unused vehicles manufactured and which are or have been sold or
22 distributed in this state or transferred into this state for resale or
23 for lease unless such manufacturer requires warranty service to be
24 performed by all of its dealers pursuant to a current service agreement
25 on file with the department;

26 (j) Fails to reimburse within a reasonable time any vehicle dealer
27 within the state of Washington who in good faith incurs reasonable
28 obligations in giving effect to warranties that attach or have attached
29 to any new or unused vehicle sold, leased, or distributed in this state
30 or transferred into this state for resale or for lease by any such
31 manufacturer;

32 (k) Engaged in practices inimical to the health and safety of the
33 citizens of the state of Washington including but not limited to
34 failure to comply with standards set by the state of Washington or the
35 federal government pertaining to the construction and safety of
36 vehicles;

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

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

3 **Sec. 7.** RCW 46.70.120 and 1996 c 282 s 4 are each amended to read
4 as follows:

5 A dealer shall complete and maintain for a period of at least five
6 years a record of the purchase and sale or lease of all vehicles
7 purchased ~~((or))~~, sold, or leased by him or her. The records shall
8 consist of:

9 (1) The license and title numbers of the state in which the last
10 license was issued;

11 (2) A description of the vehicle;

12 (3) The name and address of the person from whom purchased;

13 (4) The name of the legal owner, if any;

14 (5) The name and address of the purchaser or lessee;

15 (6) If purchased from a dealer, the name, business address, dealer
16 license number, and resale tax number of the dealer;

17 (7) The price paid for the vehicle and the method of payment;

18 (8) The vehicle odometer disclosure statement given by the seller
19 to the dealer, and the vehicle odometer disclosure statement given by
20 the dealer to the purchaser or lessee;

21 (9) The written agreement to allow a dealer to sell between the
22 dealer and the consignor, or the listing dealer and the seller;

23 (10) Trust account records of receipts, deposits, and withdrawals;

24 (11) All sale documents, which shall show the full name of dealer
25 employees involved in the sale or lease; and

26 (12) Any additional information the department may require.
27 However, the department may not require a dealer to collect or retain
28 the hardback copy of a temporary license permit after the permanent
29 license plates for a vehicle have been provided to the purchaser or
30 lessee, if the dealer maintains some other copy of the temporary
31 license permit together with a log of the permits issued.

32 Such records shall be maintained separate from all other business
33 records of the dealer. Records older than two years may be kept at a
34 location other than the dealer's place of business if those records are
35 made available in hard copy for inspection within three calendar days,
36 exclusive of Saturday, Sunday, or a legal holiday, after a request by
37 the director or the director's authorized agent. Records kept at the
38 vehicle dealer's place of business must be available for inspection by

1 the director or the director's authorized agent during normal business
2 hours.

3 Dealers may maintain their recordkeeping and filing systems in
4 accordance with their own particular business needs and practices.
5 Nothing in this chapter requires dealers to maintain their records in
6 any particular order or manner, as long as the records identified in
7 this section are maintained in the dealership's recordkeeping system.

8 **Sec. 8.** RCW 46.70.122 and 1990 c 238 s 5 are each amended to read
9 as follows:

10 (1) If the purchaser or transferee is a dealer he or she shall, on
11 selling, leasing, or otherwise disposing of the vehicle, promptly
12 execute the assignment and warranty of title, in such form as the
13 director shall prescribe.

14 (2) The assignment and warranty shall show any secured party
15 holding a security interest created or reserved at the time of resale
16 or lease, to which shall be attached the assigned certificates of
17 ownership and license registration received by the dealer. The dealer
18 shall mail or deliver them to the department with the transferee's
19 application for the issuance of new certificates of ownership and
20 license registration. The title certificate issued for a vehicle
21 possessed by a dealer and subject to a security interest shall be
22 delivered to the secured party who upon request of the dealer's
23 transferee shall, unless the transfer was a breach of the security
24 agreement, either deliver the certificate to the transferee for
25 transmission to the department, or upon receipt from the transferee of
26 the owner's bill of sale or sale document, the transferee's application
27 for a new certificate and the required fee, mail or deliver to the
28 department. Failure of a dealer to deliver the title certificate to
29 the secured party does not affect perfection of the security interest.

30 **Sec. 9.** RCW 46.70.130 and 1996 c 282 s 5 are each amended to read
31 as follows:

32 (1) Before the execution of a contract or chattel mortgage or the
33 consummation of the sale or lease of any vehicle, the seller must
34 furnish the buyer or lessee an itemization in writing signed by the
35 seller separately disclosing to the buyer or lessee the finance charge,
36 insurance costs, taxes, and other charges which are paid or to be paid
37 by the buyer or lessee.

1 (2) Notwithstanding subsection (1) of this section, an itemization
2 of the various license and title fees paid or to be paid by the buyer
3 or lessee, which itemization must be the same as that disclosed on the
4 registration/application for title document issued by the department,
5 may be required only on the title application at the time the
6 application is submitted for title transfer. A vehicle dealer may not
7 be required to separately or individually itemize the license and title
8 fees on any other document, including but not limited to the purchase
9 order and lease agreement. No fee itemization may be required on the
10 temporary permit.

11 **Sec. 10.** RCW 46.70.180 and 1999 c 398 s 10 are each amended to
12 read as follows:

13 Each of the following acts or practices is unlawful:

14 (1) To cause or permit to be advertised, printed, displayed,
15 published, distributed, broadcasted, televised, or disseminated in any
16 manner whatsoever, any statement or representation with regard to the
17 sale, lease, or financing of a vehicle which is false, deceptive, or
18 misleading, including but not limited to the following:

19 (a) That no down payment is required in connection with the sale of
20 a vehicle when a down payment is in fact required, or that a vehicle
21 may be purchased for a smaller down payment than is actually required;

22 (b) That a certain percentage of the sale price of a vehicle may be
23 financed when such financing is not offered in a single document
24 evidencing the entire security transaction;

25 (c) That a certain percentage is the amount of the service charge
26 to be charged for financing, without stating whether this percentage
27 charge is a monthly amount or an amount to be charged per year;

28 (d) That a new vehicle will be sold for a certain amount above or
29 below cost without computing cost as the exact amount of the factory
30 invoice on the specific vehicle to be sold;

31 (e) That a vehicle will be sold upon a monthly payment of a certain
32 amount, without including in the statement the number of payments of
33 that same amount which are required to liquidate the unpaid purchase
34 price.

35 (2) To incorporate within the terms of any purchase and sale or
36 lease agreement any statement or representation with regard to the
37 sale, lease, or financing of a vehicle which is false, deceptive, or
38 misleading, including but not limited to terms that include as an added

1 cost to the selling price or capitalized cost of a vehicle an amount
2 for licensing or transfer of title of that vehicle which is not
3 actually due to the state, unless such amount has in fact been paid by
4 the dealer prior to such sale.

5 (3) To set up, promote, or aid in the promotion of a plan by which
6 vehicles are to be sold or leased to a person for a consideration and
7 upon further consideration that the purchaser or lessee agrees to
8 secure one or more persons to participate in the plan by respectively
9 making a similar purchase and in turn agreeing to secure one or more
10 persons likewise to join in said plan, each purchaser or lessee being
11 given the right to secure money, credits, goods, or something of value,
12 depending upon the number of persons joining the plan.

13 (4) To commit, allow, or ratify any act of "bushing" which is
14 defined as follows: Taking from a prospective buyer or lessee of a
15 vehicle a written order or offer to purchase or lease, or a contract
16 document signed by the buyer or lessee, which:

17 (a) Is subject to the dealer's, or his or her authorized
18 representative's future acceptance, and the dealer fails or refuses
19 within three calendar days, exclusive of Saturday, Sunday, or legal
20 holiday, and prior to any further negotiations with said buyer or
21 lessee, either (i) to deliver to the buyer or lessee the dealer's
22 signed acceptance, or (ii) to void the order, offer, or contract
23 document and tender the return of any initial payment or security made
24 or given by the buyer or lessee, including but not limited to money,
25 check, promissory note, vehicle keys, a trade-in, or certificate of
26 title to a trade-in; or

27 (b) Permits the dealer to renegotiate a dollar amount specified as
28 trade-in allowance on a vehicle delivered or to be delivered by the
29 buyer or lessee as part of the purchase price or lease, for any reason
30 except:

31 (i) Failure to disclose that the vehicle's certificate of ownership
32 has been branded for any reason, including, but not limited to, status
33 as a rebuilt vehicle as provided in RCW 46.12.050 and 46.12.075; or

34 (ii) Substantial physical damage or latent mechanical defect
35 occurring before the dealer took possession of the vehicle and which
36 could not have been reasonably discoverable at the time of the taking
37 of the order, offer, or contract; or

38 (iii) Excessive additional miles or a discrepancy in the mileage.
39 "Excessive additional miles" means the addition of five hundred miles

1 or more, as reflected on the vehicle's odometer, between the time the
2 vehicle was first valued by the dealer for purposes of determining its
3 trade-in value and the time of actual delivery of the vehicle to the
4 dealer. "A discrepancy in the mileage" means (A) a discrepancy between
5 the mileage reflected on the vehicle's odometer and the stated mileage
6 on the signed odometer statement; or (B) a discrepancy between the
7 mileage stated on the signed odometer statement and the actual mileage
8 on the vehicle; or

9 (c) Fails to comply with the obligation of any written warranty or
10 guarantee given by the dealer requiring the furnishing of services or
11 repairs within a reasonable time.

12 (5) To commit any offense relating to odometers, as such offenses
13 are defined in RCW 46.37.540, 46.37.550, 46.37.560, and 46.37.570. A
14 violation of this subsection is a class C felony punishable under
15 chapter 9A.20 RCW.

16 (6) For any vehicle dealer or vehicle salesperson to refuse to
17 furnish, upon request of a prospective purchaser or lessee, for
18 vehicles previously registered to a business or governmental entity,
19 the name and address of the business or governmental entity.

20 (7) To commit any other offense under RCW 46.37.423, 46.37.424, or
21 46.37.425.

22 (8) To commit any offense relating to a dealer's temporary license
23 permit, including but not limited to failure to properly complete each
24 such permit, or the issuance of more than one such permit on any one
25 vehicle. However, a dealer may issue a second temporary permit on a
26 vehicle if the following conditions are met:

27 (a) The lienholder fails to deliver the vehicle title to the dealer
28 within the required time period;

29 (b) The dealer has satisfied the lien; and

30 (c) The dealer has proof that payment of the lien was made within
31 two calendar days, exclusive of Saturday, Sunday, or a legal holiday,
32 after the sales contract has been executed by all parties and all
33 conditions and contingencies in the sales contract have been met or
34 otherwise satisfied.

35 (9) For a dealer, (~~salesman~~) salesperson, or mobile home
36 manufacturer, having taken an instrument or cash "on deposit" from a
37 purchaser or lessee prior to the delivery of the bargained-for vehicle,
38 to commingle the "on deposit" funds with assets of the dealer,
39 (~~salesman~~) salesperson, or mobile home manufacturer instead of

1 holding the "on deposit" funds as trustee in a separate trust account
2 until the purchaser or lessee has taken delivery of the bargained-for
3 vehicle. Delivery of a manufactured home shall be deemed to occur in
4 accordance with RCW 46.70.135(5). Failure, immediately upon receipt,
5 to endorse "on deposit" instruments to such a trust account, or to set
6 aside "on deposit" cash for deposit in such trust account, and failure
7 to deposit such instruments or cash in such trust account by the close
8 of banking hours on the day following receipt thereof, shall be
9 evidence of intent to commit this unlawful practice: PROVIDED,
10 HOWEVER, That a motor vehicle dealer may keep a separate trust account
11 which equals his or her customary total customer deposits for vehicles
12 for future delivery. For purposes of this section, "on deposit" funds
13 received from a purchaser of a manufactured home means those funds that
14 a seller requires a purchaser to advance before ordering the
15 manufactured home, but does not include any loan proceeds or moneys
16 that might have been paid on an installment contract.

17 (10) For a dealer or manufacturer to fail to comply with the
18 obligations of any written warranty or guarantee given by the dealer or
19 manufacturer requiring the furnishing of goods and services or repairs
20 within a reasonable period of time, or to fail to furnish to a
21 purchaser or lessee, all parts which attach to the manufactured unit
22 including but not limited to the undercarriage, and all items specified
23 in the terms of a sales or lease agreement signed by the seller and
24 buyer or lessee.

25 (11) For a vehicle dealer to pay to or receive from any person,
26 firm, partnership, association, or corporation acting, either directly
27 or through a subsidiary, as a buyer's agent for consumers, any
28 compensation, fee, purchase moneys or funds that have been deposited
29 into or withdrawn out of any account controlled or used by any buyer's
30 agent, gratuity, or reward in connection with the purchase ~~((or))~~
31 sale, or lease of a new motor vehicle.

32 (12) For a buyer's agent, acting directly or through a subsidiary,
33 to pay to or to receive from any motor vehicle dealer any compensation,
34 fee, gratuity, or reward in connection with the purchase ~~((or))~~ sale,
35 or lease of a new motor vehicle. In addition, it is unlawful for any
36 buyer's agent to engage in any of the following acts on behalf of or in
37 the name of the consumer:

38 (a) Receiving or paying any purchase moneys or funds into or out of
39 any account controlled or used by any buyer's agent;

1 (b) Signing any vehicle purchase orders, sales contracts, leases,
2 odometer statements, or title documents, or having the name of the
3 buyer's agent appear on the vehicle purchase order, sales contract,
4 lease, or title; or

5 (c) Signing any other documentation relating to the purchase, sale,
6 lease, or transfer of any new motor vehicle.

7 It is unlawful for a buyer's agent to use a power of attorney
8 obtained from the consumer to accomplish or effect the purchase, sale,
9 lease, or transfer of ownership documents of any new motor vehicle by
10 any means which would otherwise be prohibited under (a) through (c) of
11 this subsection. However, the buyer's agent may use a power of
12 attorney for physical delivery of motor vehicle license plates to the
13 consumer.

14 Further, it is unlawful for a buyer's agent to engage in any false,
15 deceptive, or misleading advertising, disseminated in any manner
16 whatsoever, including but not limited to making any claim or statement
17 that the buyer's agent offers, obtains, or guarantees the lowest price
18 on any motor vehicle or words to similar effect.

19 (13) For a buyer's agent to arrange for or to negotiate the
20 purchase, or both, of a new motor vehicle through an out-of-state
21 dealer without disclosing in writing to the customer that the new
22 vehicle would not be subject to chapter 19.118 RCW. This subsection
23 also applies to leased vehicles. In addition, it is unlawful for any
24 buyer's agent to fail to have a written agreement with the customer
25 that: (a) Sets forth the terms of the parties' agreement; (b)
26 discloses to the customer the total amount of any fees or other
27 compensation being paid by the customer to the buyer's agent for the
28 agent's services; and (c) further discloses whether the fee or any
29 portion of the fee is refundable. ((The department of licensing shall
30 by December 31, 1996, in rule, adopt standard disclosure language for
31 buyer's agent agreements under RCW 46.70.011, 46.70.070, and this
32 section.))

33 (14) Being a manufacturer, other than a motorcycle manufacturer
34 governed by chapter 46.94 RCW, to:

35 (a) Coerce or attempt to coerce any vehicle dealer to order or
36 accept delivery of any vehicle or vehicles, parts or accessories, or
37 any other commodities which have not been voluntarily ordered by the
38 vehicle dealer: PROVIDED, That recommendation, endorsement,

1 exposition, persuasion, urging, or argument are not deemed to
2 constitute coercion;

3 (b) Cancel or fail to renew the franchise or selling agreement of
4 any vehicle dealer doing business in this state without fairly
5 compensating the dealer at a fair going business value for his or her
6 capital investment which shall include but not be limited to tools,
7 equipment, and parts inventory possessed by the dealer on the day he or
8 she is notified of such cancellation or termination and which are still
9 within the dealer's possession on the day the cancellation or
10 termination is effective, if: (i) The capital investment has been
11 entered into with reasonable and prudent business judgment for the
12 purpose of fulfilling the franchise; and (ii) the cancellation or
13 nonrenewal was not done in good faith. Good faith is defined as the
14 duty of each party to any franchise to act in a fair and equitable
15 manner towards each other, so as to guarantee one party freedom from
16 coercion, intimidation, or threats of coercion or intimidation from the
17 other party: PROVIDED, That recommendation, endorsement, exposition,
18 persuasion, urging, or argument are not deemed to constitute a lack of
19 good faith.

20 (c) Encourage, aid, abet, or teach a vehicle dealer to sell or
21 lease vehicles through any false, deceptive, or misleading sales or
22 financing practices including but not limited to those practices
23 declared unlawful in this section;

24 (d) Coerce or attempt to coerce a vehicle dealer to engage in any
25 practice forbidden in this section by either threats of actual
26 cancellation or failure to renew the dealer's franchise agreement;

27 (e) Refuse to deliver any vehicle publicly advertised for immediate
28 delivery to any duly licensed vehicle dealer having a franchise or
29 contractual agreement for the retail sale or lease of new and unused
30 vehicles sold or distributed by such manufacturer within sixty days
31 after such dealer's order has been received in writing unless caused by
32 inability to deliver because of shortage or curtailment of material,
33 labor, transportation, or utility services, or by any labor or
34 production difficulty, or by any cause beyond the reasonable control of
35 the manufacturer;

36 (f) To provide under the terms of any warranty that a purchaser or
37 lessee of any new or unused vehicle that has been sold or leased,
38 distributed for sale or lease, or transferred into this state for
39 resale or lease by the vehicle manufacturer may only make any warranty

1 claim on any item included as an integral part of the vehicle against
2 the manufacturer of that item.

3 Nothing in this section may be construed to impair the obligations
4 of a contract or to prevent a manufacturer, distributor,
5 representative, or any other person, whether or not licensed under this
6 chapter, from requiring performance of a written contract entered into
7 with any licensee hereunder, nor does the requirement of such
8 performance constitute a violation of any of the provisions of this
9 section if any such contract or the terms thereof requiring
10 performance, have been freely entered into and executed between the
11 contracting parties. This paragraph and subsection (14)(b) of this
12 section do not apply to new motor vehicle manufacturers governed by
13 chapter 46.96 RCW.

14 (15) Unlawful transfer of an ownership interest in a motor vehicle
15 as defined in RCW 19.116.050.

16 (16) To knowingly and intentionally engage in collusion with a
17 registered owner of a vehicle to repossess and return or resell the
18 vehicle to the registered owner in an attempt to avoid a suspended
19 license impound under chapter 46.55 RCW. However, compliance with
20 chapter ((62A.9)) 62A.9A RCW in repossessing, selling, leasing, or
21 otherwise disposing of the vehicle, including providing redemption
22 rights to the debtor, is not a violation of this section.

23 **Sec. 11.** RCW 46.70.900 and 1973 1st ex.s. c 132 s 20 are each
24 amended to read as follows:

25 All provisions of this chapter shall be liberally construed to the
26 end that deceptive practices or commission of fraud or
27 misrepresentation in the sale, lease, barter, or disposition of
28 vehicles in this state may be prohibited and prevented, and
29 irresponsible, unreliable, or dishonest persons may be prevented from
30 engaging in the business of selling, leasing, bartering, or otherwise
31 dealing in vehicles in this state and reliable persons may be
32 encouraged to engage in the business of selling, leasing, bartering and
33 otherwise dealing in vehicles in this state: PROVIDED, That this
34 chapter shall not apply to printers, publishers, or broadcasters who in
35 good faith print, publish or broadcast material without knowledge of
36 its deceptive character.

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