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**SUBSTITUTE HOUSE BILL 1765**

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**State of Washington**

**59th Legislature**

**2005 Regular Session**

**By** House Committee on Commerce & Labor (originally sponsored by Representatives Chase, Newhouse, Eickmeyer, Buri, Appleton, B. Sullivan and Dunn)

READ FIRST TIME 03/03/05.

1       AN ACT Relating to auctioning vessels; and amending RCW 88.02.230  
2 and 46.70.011.

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

4       **Sec. 1.** RCW 88.02.230 and 1990 c 250 s 90 are each amended to read  
5 as follows:

6       (1) The department may exempt from compliance with the vessel  
7 dealer requirements of this chapter, any person who is engaged in the  
8 business of selling in this state at wholesale or retail, human-powered  
9 watercraft which is: (a) Under sixteen feet in length; (b) unable to  
10 be powered by propulsion machinery or wind propulsion as designed by  
11 the manufacturer; and (c) not designed for use on commonly-used  
12 navigable waters.

13       (2) Any person engaged in the business of selling at wholesale or  
14 retail, exempt and nonexempt watercraft under this section shall only  
15 be required to comply with the provisions of this chapter in regard to  
16 the sale of nonexempt watercraft.

17       (3) An auction company licensed under chapter 18.11 RCW and  
18 licensed as a motor vehicle dealer under chapter 46.70 RCW may sell at

1 auction all vessels that a vessel dealer is authorized to sell, so long  
2 as the sale of vessels is incidental to the auction company's primary  
3 source of business.

4 **Sec. 2.** RCW 46.70.011 and 2001 c 272 s 2 are each amended to read  
5 as follows:

6 As used in this chapter:

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

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

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

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

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

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

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

1 (a) Receivers, trustees, administrators, executors, guardians, or  
2 other persons appointed by, or acting under a judgment or order of, any  
3 court; or

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

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

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

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

12 (f) A real estate broker licensed under chapter 18.85 RCW, or an  
13 affiliated licensee, who, on behalf of another negotiates the purchase,  
14 sale, lease, or exchange of a manufactured or mobile home in  
15 conjunction with the purchase, sale, exchange, rental, or lease of the  
16 land upon which the manufactured or mobile home is, or will be,  
17 located; or

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

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

30 (i) Any person who is regularly engaged in the business of  
31 acquiring leases or installment contracts by assignment, with respect  
32 to the acquisition and sale or other disposition of a motor vehicle in  
33 which the person has acquired an interest as a result of the business.

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

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

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

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

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

10 (b) "Factory branch," which means a branch office maintained by a  
11 manufacturer for the purpose of selling or offering for sale, vehicles  
12 to a distributor, wholesaler, or vehicle dealer, or for directing or  
13 supervising in whole or in part factory or distributor representatives,  
14 and further includes any sales promotion organization, whether a  
15 person, firm, or corporation, which is engaged in promoting the sale of  
16 new and unused vehicles in this state of a particular brand or make to  
17 vehicle dealers.

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

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

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

28 (11) "Subagency" means any place of business of a vehicle dealer  
29 within the state, which place is physically and geographically  
30 separated from the principal place of business of the firm or any place  
31 of business of a vehicle dealer within the state, at which place the  
32 firm does business using a name other than the principal name of the  
33 firm, or both.

34 (12) "Temporary subagency" means a location other than the  
35 principal place of business or subagency within the state where a  
36 licensed vehicle dealer may secure a license to conduct the business  
37 and is licensed for a period of time not to exceed ten days for a  
38 specific purpose such as auto shows, shopping center promotions, tent

1 sales, exhibitions, or similar merchandising ventures. No more than  
2 six temporary subagency licenses may be issued to a licensee in any  
3 twelve-month period.

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

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

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

11 (16) "Auction" means a transaction conducted by means of exchanges  
12 between an auctioneer and the members of the audience, constituting a  
13 series of oral invitations for offers for the purchase of vehicles made  
14 by the auctioneer, offers to purchase by members of the audience, and  
15 the acceptance of the highest or most favorable offer to purchase.

16 (17) "Auction company" means a sole proprietorship, partnership,  
17 corporation, or other legal or commercial entity licensed under chapter  
18 18.11 RCW that only sells or offers to sell vehicles or vessels at  
19 auction or only arranges or sponsors auctions.

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

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

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