
SENATE BILL 6848

State of Washington 59th Legislature 2006 Regular Session

By Senators Kohl-Welles, Esser, Haugen, Benson and Benton

Read first time 01/26/2006. Referred to Committee on Labor,
Commerce, Research & Development.

1 AN ACT Relating to disclosure of import vehicles; and amending RCW
2 46.70.011, 46.70.101, and 46.70.180.

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

4 **Sec. 1.** 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,

1 offering, brokering, leasing with an option to purchase, auctioning,
2 soliciting, or advertising the sale of new or used vehicles, or
3 arranging or offering or attempting to solicit or negotiate on behalf
4 of others, a sale, purchase, or exchange of an interest in new or used
5 motor vehicles, irrespective of whether the motor vehicles are owned by
6 that person. Vehicle dealers shall be classified as follows:

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

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

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

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

18 (a) Receivers, trustees, administrators, executors, guardians, or
19 other persons appointed by, or acting under a judgment or order of, any
20 court; or

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

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

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

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

29 (f) A real estate broker licensed under chapter 18.85 RCW, or an
30 affiliated licensee, who, on behalf of another negotiates the purchase,
31 sale, lease, or exchange of a manufactured or mobile home in
32 conjunction with the purchase, sale, exchange, rental, or lease of the
33 land upon which the manufactured or mobile home is, or will be,
34 located; or

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

1 (h) Any bank, trust company, savings bank, mutual savings bank,
2 savings and loan association, credit union, and any parent, subsidiary,
3 or affiliate thereof, authorized to do business in this state under
4 state or federal law with respect to the sale or other disposition of
5 a motor vehicle owned and used in their business; or with respect to
6 the acquisition and sale or other disposition of a motor vehicle in
7 which the entity has acquired an interest as a lessor, lessee, or
8 secured party; or

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

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

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

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

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

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

27 (b) "Factory branch," which means a branch office maintained by a
28 manufacturer for the purpose of selling or offering for sale, vehicles
29 to a distributor, wholesaler, or vehicle dealer, or for directing or
30 supervising in whole or in part factory or distributor representatives,
31 and further includes any sales promotion organization, whether a
32 person, firm, or corporation, which is engaged in promoting the sale of
33 new and unused vehicles in this state of a particular brand or make to
34 vehicle dealers.

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

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

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

7 (11) "Subagency" means any place of business of a vehicle dealer
8 within the state, which place is physically and geographically
9 separated from the principal place of business of the firm or any place
10 of business of a vehicle dealer within the state, at which place the
11 firm does business using a name other than the principal name of the
12 firm, or both.

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

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

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

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

28 (16) "Auction" means a transaction conducted by means of exchanges
29 between an auctioneer and the members of the audience, constituting a
30 series of oral invitations for offers for the purchase of vehicles made
31 by the auctioneer, offers to purchase by members of the audience, and
32 the acceptance of the highest or most favorable offer to purchase.

33 (17) "Auction company" means a sole proprietorship, partnership,
34 corporation, or other legal or commercial entity licensed under chapter
35 18.11 RCW that only sells or offers to sell vehicles at auction or only
36 arranges or sponsors auctions.

37 (18) "Buyer's agent" means any person, firm, partnership,
38 association, limited liability company, limited liability partnership,

1 or corporation retained or employed by a consumer to arrange for or to
2 negotiate, or both, the purchase or lease of a new motor vehicle on
3 behalf of the consumer, and who is paid a fee or receives other
4 compensation from the consumer for its services.

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

9 (20) "Import vehicle" means any vehicle originally manufactured for
10 use in countries other than the United States.

11 **Sec. 2.** RCW 46.70.101 and 2001 c 272 s 6 are each amended to read
12 as follows:

13 The director may by order deny, suspend, or revoke the license of
14 any vehicle dealer or vehicle manufacturer or, in lieu thereof or in
15 addition thereto, may by order assess monetary penalties of a civil
16 nature not to exceed one thousand dollars per violation, if the
17 director finds that the order is in the public interest and that the
18 applicant or licensee:

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

20 (a) The applicant or licensee, or any partner, officer, director,
21 owner of ten percent or more of the assets of the firm, or managing
22 employee:

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

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

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

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

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

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

14 (vii) Sells, exchanges, offers, brokers, auctions, solicits, or
15 advertises a new or current model vehicle to which a factory new
16 vehicle warranty attaches and fails to have a valid, written service
17 agreement as required by this chapter, or having such agreement refuses
18 to honor the terms of such agreement within a reasonable time or
19 repudiates the same, except for sales by wholesale motor vehicle
20 auction dealers to franchise motor vehicle dealers of the same make
21 licensed under Title 46 RCW or franchise motor vehicle dealers of the
22 same make licensed by any other state;

23 (viii) Is insolvent, either in the sense that their liabilities
24 exceed their assets, or in the sense that they cannot meet their
25 obligations as they mature;

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

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

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

35 (xii) Fails to have a current certificate or registration with the
36 department of revenue.

37 (b) The applicant or licensee, or any partner, officer, director,

1 owner of ten percent of the assets of the firm, or any employee or
2 agent:

3 (i) Has failed to comply with the applicable provisions of chapter
4 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted
5 thereunder;

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

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

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

14 (v) Has willfully failed to deliver to a purchaser or owner a
15 certificate of ownership to a vehicle which he or she has sold or
16 leased;

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

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

21 (viii) Has engaged in practices inimical to the health or safety of
22 the citizens of the state of Washington including but not limited to
23 failure to comply with standards set by the state of Washington or the
24 federal government pertaining to the construction or safety of
25 vehicles, except for sales by wholesale motor vehicle auction dealers
26 to motor vehicle dealers and vehicle wreckers licensed under Title 46
27 RCW or motor vehicle dealers licensed by any other state;

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

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

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

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

6 (xii) Has knowledge that a vehicle for sale or trade is an import
7 vehicle and does not disclose this fact and any possible ramifications,
8 as determined by the department of licensing, on a separate document
9 and fails to ensure that the buyer initials the disclosure prior to
10 completing the transaction.

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

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

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

22 (b) Has knowingly or with reason to know, made a false statement of
23 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 (c) Has failed to comply with the applicable provisions of chapter
27 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted
28 thereunder;

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

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

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

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

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

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

13 (j) Fails to reimburse within a reasonable time any vehicle dealer
14 within the state of Washington who in good faith incurs reasonable
15 obligations in giving effect to warranties that attach or have attached
16 to any new or unused vehicle sold, leased, or distributed in this state
17 or transferred into this state for resale or for lease by any such
18 manufacturer;

19 (k) Engaged in practices inimical to the health and safety of the
20 citizens of the state of Washington including but not limited to
21 failure to comply with standards set by the state of Washington or the
22 federal government pertaining to the construction and safety of
23 vehicles;

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

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

29 **Sec. 3.** RCW 46.70.180 and 2003 c 368 s 1 are each amended to read
30 as follows:

31 Each of the following acts or practices is unlawful:

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

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

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

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

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

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

17 (2) Failure to disclose in writing on a separate document, as
18 evidenced by the buyer's initials, that a vehicle is an import vehicle
19 and any resulting possible ramifications, as determined by the
20 department of licensing, when the vehicle dealer has or should have
21 knowledge that the vehicle is an import vehicle.

22 (3)(a) To incorporate within the terms of any purchase and sale or
23 lease agreement any statement or representation with regard to the
24 sale, lease, or financing of a vehicle which is false, deceptive, or
25 misleading, including but not limited to terms that include as an added
26 cost to the selling price or capitalized cost of a vehicle an amount
27 for licensing or transfer of title of that vehicle which is not
28 actually due to the state, unless such amount has in fact been paid by
29 the dealer prior to such sale. However, an amount not to exceed
30 thirty-five dollars per vehicle sale or lease may be charged by a
31 dealer to recover administrative costs for collecting motor vehicle
32 excise taxes, licensing and registration fees and other agency fees,
33 verifying and clearing titles, transferring titles, perfecting,
34 releasing, or satisfying liens or other security interests, and other
35 administrative and documentary services rendered by a dealer in
36 connection with the sale or lease of a vehicle and in carrying out the
37 requirements of this chapter or any other provisions of state law.

1 (b) A dealer may charge the documentary service fee in (a) of this
2 subsection under the following conditions:

3 (i) The documentary service fee is disclosed in writing to a
4 prospective purchaser or lessee before the execution of a purchase and
5 sale or lease agreement;

6 (ii) The documentary service fee is not represented to the
7 purchaser or lessee as a fee or charge required by the state to be paid
8 by either the dealer or prospective purchaser or lessee;

9 (iii) The documentary service fee is separately designated from the
10 selling price or capitalized cost of the vehicle and from any other
11 taxes, fees, or charges; and

12 (iv) Dealers disclose in any advertisement that a documentary
13 service fee in an amount up to thirty-five dollars may be added to the
14 sale price or the capitalized cost.

15 For the purposes of this subsection (~~((+2))~~) (3), the term
16 "documentary service fee" means the optional amount charged by a dealer
17 to provide the services specified in (a) of this subsection.

18 (~~((+3))~~) (4) To set up, promote, or aid in the promotion of a plan
19 by which vehicles are to be sold or leased to a person for a
20 consideration and upon further consideration that the purchaser or
21 lessee agrees to secure one or more persons to participate in the plan
22 by respectively making a similar purchase and in turn agreeing to
23 secure one or more persons likewise to join in said plan, each
24 purchaser or lessee being given the right to secure money, credits,
25 goods, or something of value, depending upon the number of persons
26 joining the plan.

27 (~~((+4))~~) (5) To commit, allow, or ratify any act of "bushing" which
28 is defined as follows: Taking from a prospective buyer or lessee of a
29 vehicle a written order or offer to purchase or lease, or a contract
30 document signed by the buyer or lessee, which:

31 (a) Is subject to the dealer's, or his or her authorized
32 representative's future acceptance, and the dealer fails or refuses
33 within three calendar days, exclusive of Saturday, Sunday, or legal
34 holiday, and prior to any further negotiations with said buyer or
35 lessee, either (i) to deliver to the buyer or lessee the dealer's
36 signed acceptance, or (ii) to void the order, offer, or contract
37 document and tender the return of any initial payment or security made

1 or given by the buyer or lessee, including but not limited to money,
2 check, promissory note, vehicle keys, a trade-in, or certificate of
3 title to a trade-in; or

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

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

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

15 (iii) Excessive additional miles or a discrepancy in the mileage.
16 "Excessive additional miles" means the addition of five hundred miles
17 or more, as reflected on the vehicle's odometer, between the time the
18 vehicle was first valued by the dealer for purposes of determining its
19 trade-in value and the time of actual delivery of the vehicle to the
20 dealer. "A discrepancy in the mileage" means (A) a discrepancy between
21 the mileage reflected on the vehicle's odometer and the stated mileage
22 on the signed odometer statement; or (B) a discrepancy between the
23 mileage stated on the signed odometer statement and the actual mileage
24 on the vehicle; or

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

28 ~~((+5))~~ (6) To commit any offense relating to odometers, as such
29 offenses are defined in RCW 46.37.540, 46.37.550, 46.37.560, and
30 46.37.570. A violation of this subsection is a class C felony
31 punishable under chapter 9A.20 RCW.

32 ~~((+6))~~ (7) For any vehicle dealer or vehicle salesperson to refuse
33 to furnish, upon request of a prospective purchaser or lessee, for
34 vehicles previously registered to a business or governmental entity,
35 the name and address of the business or governmental entity.

36 ~~((+7))~~ (8) To commit any other offense under RCW 46.37.423,
37 46.37.424, or 46.37.425.

1 (~~(8)~~) (9) To commit any offense relating to a dealer's temporary
2 license permit, including but not limited to failure to properly
3 complete each such permit, or the issuance of more than one such permit
4 on any one vehicle. However, a dealer may issue a second temporary
5 permit on a vehicle if the following conditions are met:

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

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

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

14 (~~(9)~~) (10) For a dealer, salesperson, or mobile home
15 manufacturer, having taken an instrument or cash "on deposit" from a
16 purchaser or lessee prior to the delivery of the bargained-for vehicle,
17 to commingle the "on deposit" funds with assets of the dealer,
18 salesperson, or mobile home manufacturer instead of holding the "on
19 deposit" funds as trustee in a separate trust account until the
20 purchaser or lessee has taken delivery of the bargained-for vehicle.
21 Delivery of a manufactured home shall be deemed to occur in accordance
22 with RCW 46.70.135(5). Failure, immediately upon receipt, to endorse
23 "on deposit" instruments to such a trust account, or to set aside "on
24 deposit" cash for deposit in such trust account, and failure to deposit
25 such instruments or cash in such trust account by the close of banking
26 hours on the day following receipt thereof, shall be evidence of intent
27 to commit this unlawful practice: PROVIDED, HOWEVER, That a motor
28 vehicle dealer may keep a separate trust account which equals his or
29 her customary total customer deposits for vehicles for future delivery.
30 For purposes of this section, "on deposit" funds received from a
31 purchaser of a manufactured home means those funds that a seller
32 requires a purchaser to advance before ordering the manufactured home,
33 but does not include any loan proceeds or moneys that might have been
34 paid on an installment contract.

35 (~~(10)~~) (11) For a dealer or manufacturer to fail to comply with
36 the obligations of any written warranty or guarantee given by the
37 dealer or manufacturer requiring the furnishing of goods and services
38 or repairs within a reasonable period of time, or to fail to furnish to

1 a purchaser or lessee, all parts which attach to the manufactured unit
2 including but not limited to the undercarriage, and all items specified
3 in the terms of a sales or lease agreement signed by the seller and
4 buyer or lessee.

5 ~~((+11+))~~ (12) For a vehicle dealer to pay to or receive from any
6 person, firm, partnership, association, or corporation acting, either
7 directly or through a subsidiary, as a buyer's agent for consumers, any
8 compensation, fee, purchase moneys or funds that have been deposited
9 into or withdrawn out of any account controlled or used by any buyer's
10 agent, gratuity, or reward in connection with the purchase, sale, or
11 lease of a new motor vehicle.

12 ~~((+12+))~~ (13) For a buyer's agent, acting directly or through a
13 subsidiary, to pay to or to receive from any motor vehicle dealer any
14 compensation, fee, gratuity, or reward in connection with the purchase,
15 sale, or lease of a new motor vehicle. In addition, it is unlawful for
16 any buyer's agent to engage in any of the following acts on behalf of
17 or in the name of the consumer:

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

20 (b) Signing any vehicle purchase orders, sales contracts, leases,
21 odometer statements, or title documents, or having the name of the
22 buyer's agent appear on the vehicle purchase order, sales contract,
23 lease, or title; or

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

26 It is unlawful for a buyer's agent to use a power of attorney
27 obtained from the consumer to accomplish or effect the purchase, sale,
28 lease, or transfer of ownership documents of any new motor vehicle by
29 any means which would otherwise be prohibited under (a) through (c) of
30 this subsection. However, the buyer's agent may use a power of
31 attorney for physical delivery of motor vehicle license plates to the
32 consumer.

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

1 (~~(13)~~) (14) For a buyer's agent to arrange for or to negotiate
2 the purchase, or both, of a new motor vehicle through an out-of-state
3 dealer without disclosing in writing to the customer that the new
4 vehicle would not be subject to chapter 19.118 RCW. This subsection
5 also applies to leased vehicles. In addition, it is unlawful for any
6 buyer's agent to fail to have a written agreement with the customer
7 that: (a) Sets forth the terms of the parties' agreement; (b)
8 discloses to the customer the total amount of any fees or other
9 compensation being paid by the customer to the buyer's agent for the
10 agent's services; and (c) further discloses whether the fee or any
11 portion of the fee is refundable.

12 (~~(14)~~) (15) Being a manufacturer, other than a motorcycle
13 manufacturer governed by chapter (~~(46.94)~~) 46.93 RCW, to:

14 (a) Coerce or attempt to coerce any vehicle dealer to order or
15 accept delivery of any vehicle or vehicles, parts or accessories, or
16 any other commodities which have not been voluntarily ordered by the
17 vehicle dealer: PROVIDED, That recommendation, endorsement,
18 exposition, persuasion, urging, or argument are not deemed to
19 constitute coercion;

20 (b) Cancel or fail to renew the franchise or selling agreement of
21 any vehicle dealer doing business in this state without fairly
22 compensating the dealer at a fair going business value for his or her
23 capital investment which shall include but not be limited to tools,
24 equipment, and parts inventory possessed by the dealer on the day he or
25 she is notified of such cancellation or termination and which are still
26 within the dealer's possession on the day the cancellation or
27 termination is effective, if: (i) The capital investment has been
28 entered into with reasonable and prudent business judgment for the
29 purpose of fulfilling the franchise; and (ii) the cancellation or
30 nonrenewal was not done in good faith. Good faith is defined as the
31 duty of each party to any franchise to act in a fair and equitable
32 manner towards each other, so as to guarantee one party freedom from
33 coercion, intimidation, or threats of coercion or intimidation from the
34 other party: PROVIDED, That recommendation, endorsement, exposition,
35 persuasion, urging, or argument are not deemed to constitute a lack of
36 good faith;

37 (c) Encourage, aid, abet, or teach a vehicle dealer to sell or

1 lease vehicles through any false, deceptive, or misleading sales or
2 financing practices including but not limited to those practices
3 declared unlawful in this section;

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

7 (e) Refuse to deliver any vehicle publicly advertised for immediate
8 delivery to any duly licensed vehicle dealer having a franchise or
9 contractual agreement for the retail sale or lease of new and unused
10 vehicles sold or distributed by such manufacturer within sixty days
11 after such dealer's order has been received in writing unless caused by
12 inability to deliver because of shortage or curtailment of material,
13 labor, transportation, or utility services, or by any labor or
14 production difficulty, or by any cause beyond the reasonable control of
15 the manufacturer;

16 (f) To provide under the terms of any warranty that a purchaser or
17 lessee of any new or unused vehicle that has been sold or leased,
18 distributed for sale or lease, or transferred into this state for
19 resale or lease by the vehicle manufacturer may only make any warranty
20 claim on any item included as an integral part of the vehicle against
21 the manufacturer of that item.

22 Nothing in this section may be construed to impair the obligations
23 of a contract or to prevent a manufacturer, distributor,
24 representative, or any other person, whether or not licensed under this
25 chapter, from requiring performance of a written contract entered into
26 with any licensee hereunder, nor does the requirement of such
27 performance constitute a violation of any of the provisions of this
28 section if any such contract or the terms thereof requiring
29 performance, have been freely entered into and executed between the
30 contracting parties. This paragraph and subsection ~~((+14+))~~ (15)(b) of
31 this section do not apply to new motor vehicle manufacturers governed
32 by chapter 46.96 RCW.

33 ~~((+15+))~~ (16) Unlawful transfer of an ownership interest in a motor
34 vehicle as defined in RCW 19.116.050.

35 ~~((+16+))~~ (17) To knowingly and intentionally engage in collusion
36 with a registered owner of a vehicle to repossess and return or resell
37 the vehicle to the registered owner in an attempt to avoid a suspended
38 license impound under chapter 46.55 RCW. However, compliance with

1 chapter 62A.9A RCW in repossessing, selling, leasing, or otherwise
2 disposing of the vehicle, including providing redemption rights to the
3 debtor, is not a violation of this section.

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