

HOUSE BILL REPORT

HB 1704

As Reported by House Committee On:
Commerce & Labor

Title: An act relating to the termination, cancellation, or nonrenewal of franchises between new motor vehicle dealers and manufacturers.

Brief Description: Addressing the termination, cancellation, or nonrenewal of franchises between new motor vehicle dealers and manufacturers.

Sponsors: Representatives Conway, Chandler, Wood and Santos.

Brief History:

Committee Activity:

Commerce & Labor: 2/6/09, 2/18/09 [DPS].

Brief Summary of Substitute Bill

- Requires a motor vehicle manufacturer to pay specified sums to a motor vehicle dealer upon the termination, cancellation, or nonrenewal of a franchise.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Crouse, Green, Moeller and Williams.

Staff: Alison Hellberg (786-7152)

Background:

Many aspects of the franchise relationship between motor vehicle manufacturers and motor vehicle dealers are regulated by the Department of Licensing (Department). Prior to the termination, cancellation, or nonrenewal of a franchise, a manufacturer must give written notice to the Department and the dealer. The notice must state the intention to terminate, cancel, or not renew the franchise; the reasons for the termination, cancellation, or

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nonrenewal; and the effective date of the termination, cancellation, or nonrenewal. The notice must be given within a specified time period.

If the manufacturer terminates, cancels, or fails to renew a franchise, the manufacturer must pay the dealer:

- dealer cost of unused, undamaged, and unsold new motor vehicles;
- dealer cost for all unused, undamaged, and unsold supplies, parts, and accessories in original packaging;
- dealer cost for unused, undamaged, and unsold inventory;
- the fair market value of each undamaged sign owned by the new motor vehicle dealer that bears a common name, trade name, or trademark of the manufacturer;
- the fair market value of all equipment, furnishings, and special tools; and
- the cost of transporting, handling, packing, and loading of new motor vehicles, supplies, parts, accessories, signs, special tools, equipment, and furnishings.

The manufacturer must pay the specified sums within 90 days after the tender of the property, if the dealer has clear title to the property and is in a position to convey that title to the manufacturer. To the extent the franchise agreement provides for payment or reimbursement to the dealer in excess of that specified in this section, the provisions of the franchise agreement will control.

Summary of Substitute Bill:

The manufacturer is required to pay specified sums to the dealer upon the termination, cancellation, or nonrenewal of a franchise regardless of who initiated it.

The manufacturer must pay the dealer the specified sums within 90 days after the termination, cancellation, or nonrenewal of the franchise if the dealer has clear title to the property, or can provide clear title to the property upon payment by the manufacturer, and is in a position to convey that title to the manufacturer.

Manufacturers are only required to repurchase vehicles that were acquired by the dealer in the ordinary course of business. They are not required to repurchase inventory that is sold to a dealer as part of the sale of a franchise. Manufacturers may negotiate so that a dealer purchasing a franchise acquires inventory from the manufacturer that would otherwise be repurchased from the dealer selling the franchise. A manufacturer is not required to repurchase inventory acquired by a dealer purchasing a franchise.

Substitute Bill Compared to Original Bill:

Manufacturers are only required to repurchase vehicles that were acquired by the dealer in the ordinary course of business. They are not required to repurchase inventory that is sold to a dealer as part of the sale of a franchise. Manufacturers may negotiate so that a dealer purchasing a franchise acquires inventory from the manufacturer that would otherwise be

repurchased from the dealer selling the franchise. A manufacturer is not required to repurchase inventory acquired by a dealer purchasing a franchise.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) This is a critical time for auto dealers. Manufacturers have secured federal assistance, but dealers are on their own. They are closing dealerships and laying off workers. The risk for buying new vehicles should be shared with manufacturers. If the risk is shared, dealers will be more willing to buy new cars.

Dealerships are closing and this bill would create an orderly way to leave the business. It is no extra burden on manufacturers because they are in a better position to redistribute the vehicles to dealerships that are surviving.

(Opposed) Manufacturers recognize that dealers and manufacturers are in this together and are willing to work with the dealers to amend the bill. There is some concern about what happens when a dealership is sold or transferred. The manufacturers are currently in negotiations and want to make sure the bill is even-sided.

Persons Testifying: (In support) Scott Hazlegrove, Washington State Auto Dealers Association; Tom Lane, Dwayne Lane's Family of Auto Centers; and Mary Byrne, Advantage Nissan.

(Opposed) Ryan Spiller, Automobile Manufacturers Alliance.

Persons Signed In To Testify But Not Testifying: None.