

# SENATE BILL REPORT

## ESHB 1664

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As Reported by Senate Committee On:  
Labor, Commerce & Consumer Protection, March 26, 2009

**Title:** An act relating to termination, cancellation, or nonrenewal of motorsports manufacturer and dealer franchise agreements.

**Brief Description:** Addressing the termination, cancellation, or nonrenewal of motorsports manufacturer and dealer franchise agreements.

**Sponsors:** House Committee on Commerce & Labor (originally sponsored by Representatives Wood, Conway, Hinkle and Ormsby).

**Brief History:** Passed House: 3/05/09, 97-0.

**Committee Activity:** Labor, Commerce & Consumer Protection: 3/23/09, 3/26/09 [DPA, w/oRec].

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### SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

**Majority Report:** Do pass as amended.

Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Holmquist, Ranking Minority Member; Franklin and King.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Honeyford.

**Staff:** Alison Mendiola (786-7483)

**Background:** Many aspects of the franchise relationship between motorsports vehicle manufacturers and motorsports vehicle dealers are regulated by the Department of Licensing (Department). "Motorsports vehicles" are defined as motorcycles, mopeds, snowmobiles, personal watercraft, and four-wheel all-terrain vehicles.

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

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

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 motorsports vehicles;
- dealer cost for all unused, undamaged, and unsold supplies, parts, and accessories in original packaging;
- dealer cost for all unused, undamaged, and unsold inventory;
- the fair market value of each undamaged sign owned by the dealer that bears a common name, trade name, or trademark of the manufacturer; and
- the fair market value of all special tools owned or leased by the dealer.

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 Bill (Recommended Amendments):** The manufacturer must 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 motorsports vehicles that were acquired by the dealer in the ordinary course of business.

**EFFECT OF CHANGES MADE BY LABOR, COMMERCE & CONSUMER PROTECTION COMMITTEE (Recommended Amendments):** An emergency clause is added.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony on Engrossed Substitute House Bill:** PRO: This bill is good for consumers and dealers. It makes good sense, even despite the current economic times. Dealers enter into one-way franchise agreements with manufacturers and this bill helps to level the playing field.

CON: The law already provides many protections for dealers. There is a concern about returning products to the manufacturers, it may open up liability. This will only result in an increased cost to consumers.

**Persons Testifying:** PRO: Representative Wood, prime sponsor; James Boltz, Washington State Motorcross Dealer Association; Vicki Gray, South Sound Honda, South Bound Honda; Chris Paulson, Paulson's Motorsports.

CON: Warren Fossum, Yamaha Motorcorp, USA.