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**SUBSTITUTE SENATE BILL 6827**

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**State of Washington                      61st Legislature                      2010 Regular Session**

**By Senate Transportation (originally sponsored by Senator Morton)**

READ FIRST TIME 02/09/10.

1            AN ACT Relating to vehicle dealers in counties with a population of  
2 ten thousand or less; amending RCW 46.70.021 and 46.70.115; and  
3 prescribing penalties.

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

5            **Sec. 1.** RCW 46.70.021 and 2003 c 53 s 249 are each amended to read  
6 as follows:

7            (1) It is unlawful for any person, firm, or association to act as  
8 a vehicle dealer or vehicle manufacturer, to engage in business as  
9 such, serve in the capacity of such, advertise himself, herself, or  
10 themselves as such, solicit sales as such, or distribute or transfer  
11 vehicles for resale in this state, without first obtaining and holding  
12 a current license as provided in this chapter, unless the title of the  
13 vehicle is in the name of the seller.

14            (2) It is unlawful for any person other than a licensed vehicle  
15 dealer to display a vehicle for sale unless the registered owner or  
16 legal owner is the displayer or holds a notarized power of attorney.

17            (3)(a) Except as provided in (b) of this subsection, a person or  
18 firm engaged in buying and offering for sale, or buying and selling,  
19 five or more vehicles in a twelve-month period, or in any other way

1 engaged in dealer activity without holding a vehicle dealer license, is  
2 guilty of a gross misdemeanor, and upon conviction subject to a fine of  
3 up to five thousand dollars for each violation and up to one year in  
4 jail.

5 (b) A second offense is a class C felony punishable under chapter  
6 9A.20 RCW.

7 (c) Any resident of a county with a population of ten thousand or  
8 less as determined by the office of financial management is not subject  
9 to the penalties provided in (a) and (b) of this subsection unless the  
10 resident is engaged, in that county, in buying and offering for sale,  
11 or buying and selling, seven or more vehicles in a twelve-month period,  
12 or in any other way engaged in dealer activity without holding a  
13 vehicle dealer license. This subsection (3)(c) applies only (i) to  
14 residents and not firms and (ii) if all such transactions by that  
15 resident occur within the resident's county. The department shall  
16 adopt rules under this subsection (3)(c) regarding ethical practices  
17 consistent with the prohibitions under RCW 46.70.180 governing sales  
18 under this subsection (3)(c) and violations that are subject to penalty  
19 under RCW 46.70.170.

20 (d) The department shall periodically review vehicle bill of sales  
21 and identify persons who have sold five or more vehicles within a  
22 twelve-month period and follow up to determine if curbstoning, as  
23 defined in RCW 46.70.115(3) (a) and (b), has taken place.

24 (4) A violation of this section is also a per se violation of  
25 chapter 19.86 RCW and is considered a deceptive practice.

26 (5) The department of licensing, the Washington state patrol, the  
27 attorney general's office, and the department of revenue shall  
28 cooperate in the enforcement of this section.

29 (6) A distributor, factory branch, or factory representative shall  
30 not be required to have a vehicle manufacturer license so long as the  
31 vehicle manufacturer so represented is properly licensed pursuant to  
32 this chapter.

33 (7) Nothing in this chapter prohibits financial institutions from  
34 cooperating with vehicle dealers licensed under this chapter in dealer  
35 sales or leases. However, financial institutions shall not broker  
36 vehicles and cooperation is limited to organizing, promoting, and  
37 financing of such dealer sales or leases.

1       **Sec. 2.** RCW 46.70.115 and 2000 c 131 s 1 are each amended to read  
2 as follows:

3       (1) If it appears to the director that a person has engaged or is  
4 about to engage in an act or practice constituting a violation of this  
5 chapter, or a rule adopted or an order issued under this chapter, the  
6 director may issue an order directing the person to cease and desist  
7 from continuing the act or practice. Reasonable notice of and  
8 opportunity for a hearing shall be given. The director may issue a  
9 temporary order pending a hearing. The temporary order shall remain in  
10 effect until ten days after the hearing is held and shall become final  
11 if the person to whom the notice is addressed does not request a  
12 hearing within fifteen days after receipt of the notice.

13       (2) The director may levy and collect a civil penalty, in an amount  
14 not to exceed one thousand dollars for each violation, against a person  
15 found by the director to be curbstoning, as that term is defined in  
16 subsection (3) of this section. A person against whom a civil penalty  
17 has been imposed must receive reasonable notice and an opportunity for  
18 a hearing on the issue. The civil penalty is due ten days after  
19 issuance of a final order.

20       (3) For the purposes of subsection (2) of this section, (a)  
21 "curbstoning" means a person or firm engaged in buying and offering for  
22 sale, or buying and selling, five or more vehicles that are each less  
23 than thirty years old in a twelve-month period without holding a  
24 vehicle dealer license, and (b) for residents of a county with a  
25 population of ten thousand or less as determined by the office of  
26 financial management, "curbstoning" means a person or firm engaged, in  
27 that county, in buying and offering for sale, or buying and selling,  
28 seven or more vehicles that are each less than thirty years old in a  
29 twelve-month period without holding a vehicle dealer license. For the  
30 purpose of subsections (1) and (2) of this section, "curbstoning" does  
31 not include the sale of equipment or vehicles used in farming as  
32 defined in RCW 46.04.183 and sold by a farmer as defined in RCW  
33 46.04.182.

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