

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 1049

67th Legislature
2021 Regular Session

Passed by the House April 13, 2021
Yeas 98 Nays 0

**Speaker of the House of
Representatives**

Passed by the Senate April 10, 2021
Yeas 49 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 1049** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 1049

AS AMENDED BY THE SENATE

Passed Legislature - 2021 Regular Session

State of Washington 67th Legislature 2021 Regular Session

By Representatives Kirby, Vick, Kloba, Leavitt, Ryu, Morgan, Ramel, Springer, and Stokesbary

Prefiled 12/23/20. Read first time 01/11/21. Referred to Committee on Consumer Protection & Business.

1 AN ACT Relating to the off-site delivery of a vehicle by a
2 vehicle dealer licensed under chapter 46.70 RCW; and amending RCW
3 19.118.031, 63.14.040, 63.14.154, and 46.70.023.

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

5 **Sec. 1.** RCW 19.118.031 and 2009 c 351 s 2 are each amended to
6 read as follows:

7 (1) The manufacturer shall publish an owner's manual and provide
8 it to the new motor vehicle dealer or leasing company. The owner's
9 manual shall include a list of the addresses and phone numbers for
10 the manufacturer's customer assistance division, or zone or regional
11 offices. A manufacturer shall provide to the new motor vehicle dealer
12 or leasing company all applicable manufacturer's written warranties.
13 The dealer or leasing company shall transfer to the consumer, at the
14 time of original retail sale or lease, the owner's manual and
15 applicable written warranties as provided by a manufacturer.

16 (2) At the time of purchase, the new motor vehicle dealer shall
17 provide the consumer with a written statement that explains the
18 consumer's rights under this chapter. The written statement shall be
19 prepared and supplied by the attorney general and shall contain a
20 toll-free number that the consumer can contact for information
21 regarding the procedures and remedies under this chapter, and may be

1 presented to the consumer in paper or electronic form. In the event a
2 consumer requests modification of the new motor vehicle in a manner
3 which may partially or completely void the manufacturer's implied or
4 express warranty, and which becomes part of the basis of the bargain
5 of the initial retail sale or lease of the vehicle, a new motor
6 vehicle dealer shall provide a clear and conspicuous written
7 disclosure, independently signed and dated by the consumer, stating
8 "Your requested modification may void all or part of a manufacturer
9 warranty and a resulting defect or condition may not be subject to
10 remedies afforded by the motor vehicle warranties act, chapter 19.118
11 RCW." A dealer who obtains a signed written disclosure under
12 circumstances where the warranty may be void is not subject to this
13 chapter as a manufacturer to the extent the modification affects the
14 use, value, or safety of a new motor vehicle. Failure to provide the
15 disclosure specified in this subsection does not constitute a
16 violation of chapter 19.86 RCW.

17 (3) For the purposes of this chapter, if a new motor vehicle does
18 not conform to the warranty and the consumer reports the
19 nonconformity during the term of the eligibility period or the period
20 of coverage of the applicable manufacturer's written warranty,
21 whichever is less, to the manufacturer, its agent, or the new motor
22 vehicle dealer who sold the new motor vehicle, the manufacturer, its
23 agent, or the new motor vehicle dealer shall make repairs as are
24 necessary to conform the vehicle to the warranty, regardless of
25 whether such repairs are made after the expiration of the eligibility
26 period. Any corrections or attempted repairs undertaken by a new
27 motor vehicle dealer under this chapter shall be treated as warranty
28 work and billed by the dealer to the manufacturer in the same manner
29 as other work under the manufacturer's written warranty is billed.
30 For purposes of this subsection, the manufacturer's written warranty
31 shall be at least one year after the date of the original delivery to
32 the consumer of the vehicle or the first twelve thousand miles of
33 operation, whichever occurs first.

34 (4) Upon request from the consumer, the manufacturer or new motor
35 vehicle dealer shall provide a copy of any report or computer reading
36 compiled by the manufacturer's field or zone representative regarding
37 inspection, diagnosis, or test-drive of the consumer's new motor
38 vehicle, or shall provide a copy of any technical service bulletin
39 issued by the manufacturer regarding the year and model of the

1 consumer's new motor vehicle as it pertains to any material, feature,
2 component, or the performance thereof.

3 (5) The new motor vehicle dealer shall provide to the consumer
4 each time the consumer's vehicle is returned from being diagnosed or
5 repaired under the warranty, a fully itemized, legible statement or
6 repair order indicating any diagnosis made, and all work performed on
7 the vehicle including but not limited to, a general description of
8 the problem reported by the consumer or an identification of the
9 defect or condition, parts and labor, the date and the odometer
10 reading when the vehicle was submitted for repair, and the date when
11 the vehicle was made available to the consumer.

12 (6) No manufacturer, its agent, or the new motor vehicle dealer
13 may refuse to diagnose or repair any nonconformity covered by the
14 warranty for the purpose of avoiding liability under this chapter.

15 (7) For purposes of this chapter, consumers shall have the rights
16 and remedies, including a cause of action, against manufacturers as
17 provided in this chapter.

18 (8) The eligibility period and thirty-day out-of-service period,
19 and sixty-day out-of-service period in the case of a motor home,
20 shall be extended by any time that repair services are not available
21 to the consumer as a direct result of a strike, war, invasion, fire,
22 flood, or other natural disaster.

23 **Sec. 2.** RCW 63.14.040 and 2012 c 117 s 167 are each amended to
24 read as follows:

25 (1) The retail installment contract shall contain the names of
26 the seller and the buyer, the place of business of the seller, the
27 residence or other address of the buyer as specified by the buyer and
28 a description or identification of the goods sold or to be sold, or
29 service furnished or rendered or to be furnished or rendered. The
30 contract also shall contain the following items, which shall be set
31 forth in the sequence appearing below:

32 (a) The sale price of each item of goods or services;

33 (b) The amount of the buyer's down payment, if any, identifying
34 the amounts paid in money and allowed for goods traded in;

35 (c) The difference between items (a) and (b) of this subsection;

36 (d) The aggregate amount, if any, included for insurance,
37 specifying the type or types of insurance and the terms of coverage;

38 (e) The aggregate amount of official fees, if any;

1 (f) The amount, if any, actually paid or to be paid by the retail
2 seller pursuant to an agreement with the buyer to discharge a
3 security interest or lien on like-kind goods traded in or lease
4 interest in the circumstance of a lease for like goods being
5 terminated in conjunction with the sale pursuant to a retail
6 installment contract;

7 (g) The principal balance, which is the sum of items (c), (d),
8 (e), and (f) of this subsection;

9 (h) The dollar amount or rate of the service charge;

10 (i) The amount of the time balance owed by the buyer to the
11 seller, which is the sum of items (g) and (h) of this subsection, if

12 (h) (~~(of this subsection)~~) of this subsection is stated in a dollar
13 amount; and

14 (j) Except as otherwise provided in the next two sentences, the
15 maximum number of installment payments required and the amount of
16 each installment and the due date of each payment necessary to pay
17 such balance. If installment payments other than the final payment
18 are stated as a series of equal scheduled amounts and if the amount
19 of the final installment payment does not substantially exceed the
20 scheduled amount of each preceding installment payment, the maximum
21 number of payments and the amount and due date of each payment need
22 not be separately stated and the amount of the scheduled final
23 installment payment may be stated as the remaining unpaid balance.
24 The due date of the first installment payment may be fixed by a day
25 or date or may be fixed by reference to the date of the contract or
26 to the time of delivery or installation.

27 Additional items may be included to explain the calculations
28 involved in determining the balance to be paid by the buyer.

29 (2) Every retail installment contract shall contain the following
30 notice in ten point bold face type or larger directly above the space
31 reserved in the contract for the signature of the buyer: "NOTICE TO
32 BUYER:

33 (a) Do not sign this contract before you read it or if any spaces
34 intended for the agreed terms, except as to unavailable information,
35 are blank.

36 (b) You are entitled to a copy of this contract at the time you
37 sign it.

38 (c) You may at any time pay off the full unpaid balance due under
39 this contract, and in so doing you may receive a partial rebate of
40 the service charge.

1 (d) The service charge does not exceed% (must be filled
2 in) per annum computed monthly.

3 (e) You may cancel this contract if it is solicited in person,
4 and you sign it, at a place other than the seller's business address
5 shown on the contract, by sending notice of such cancellation by
6 certified mail return receipt requested to the seller at his or her
7 address shown on the contract which notice shall be posted not later
8 than midnight of the third day (excluding Sundays and holidays)
9 following your signing this contract. If you choose to cancel this
10 contract, you must return or make available to the seller at the
11 place of delivery any merchandise, in its original condition,
12 received by you under this contract."

13 Subsection (2)(e) of this section is effective and needs to be
14 included in the notice only if the contract is solicited in person by
15 the seller or his or her representative, and the buyer signs it, at a
16 place other than the seller's business address shown on the contract,
17 but does not apply to a retail installment contract used for the sale
18 of a motor vehicle by a licensed vehicle dealer.

19 **Sec. 3.** RCW 63.14.154 and 2012 c 117 s 174 are each amended to
20 read as follows:

21 (1) In addition to any other rights he or she may have, the buyer
22 shall have the right to cancel a retail installment transaction for
23 other than the seller's breach by sending notice of such cancellation
24 to the seller at his or her place of business as set forth in the
25 contract or charge agreement by certified mail, return receipt
26 requested, which shall be posted not later than midnight of the third
27 day (excluding Sundays and holidays) following the date the buyer
28 signs the contract or charge agreement:

29 (a) If the retail installment transaction was entered into by the
30 buyer and solicited in person or by a commercial telephone
31 solicitation as defined by chapter 20, Laws of 1989 by the seller or
32 his or her representative at a place other than the seller's address,
33 which may be his or her main or branch office, shown on the contract;
34 and

35 (b) If the buyer returns goods received or makes them available
36 to the seller as provided in subsection (2)(b) of this section.

37 (2) In the event of cancellation pursuant to this section:

38 (a) The seller shall, without request, refund to the buyer within
39 ten days after such cancellation all deposits, including any down

1 payment, made under the contract or charge agreement and shall return
2 all goods traded in to the seller on account or in contemplation of
3 the contract less any reasonable costs actually incurred in making
4 ready for sale the goods so traded in;

5 (b) The seller shall be entitled to reclaim and the buyer shall
6 return or make available to the seller at the place of delivery in
7 its original condition any goods received by the buyer under the
8 contract or charge agreement;

9 (c) The buyer shall incur no additional liability for such
10 cancellation.

11 (3) This section does not apply to a retail installment
12 transaction for the purchase of a motor vehicle. If a retail
13 installment sale contract is used for the sale of a vehicle by a
14 motor vehicle dealer at a place other than the dealer's address, the
15 dealer must disclose to the purchaser or lessee in writing that there
16 is no right to cancel the contract under RCW 63.14.154.

17 **Sec. 4.** RCW 46.70.023 and 2016 sp.s. c 26 s 2 are each amended
18 to read as follows:

19 (1) An "established place of business" requires a permanent,
20 enclosed commercial building located within the state of Washington
21 easily accessible at all reasonable times. The business of a vehicle
22 dealer must be lawfully carried on at an established place of
23 business in accordance with the terms of all applicable building
24 code, zoning, and other land-use regulatory ordinances. A vehicle
25 dealer may display a vehicle for sale only at its established place
26 of business, licensed subagency, or temporary subagency site, except
27 at auction, however a vehicle dealer may deliver a vehicle for
28 inspection, a test drive, lease, or purchase and have a customer sign
29 agreements over the internet or at a location other than the vehicle
30 dealer's established place of business or licensed or temporary
31 subagency. The dealer shall keep the building open to the public so
32 that the public may contact the vehicle dealer or the dealer's
33 salespersons at all reasonable times. The books, records, and files
34 necessary to conduct the business shall be kept and maintained at
35 that place. The established place of business shall display an
36 exterior sign with the business name and nature of the business, such
37 as auto sales, permanently affixed to the land or building, with
38 letters clearly visible to the major avenue of traffic. A room or
39 rooms in a hotel, rooming house, or apartment house building or part

1 of a single or multiple-unit dwelling house may not be considered an
2 "established place of business" unless the ground floor of such a
3 dwelling is devoted principally to and occupied for commercial
4 purposes and the dealer offices are located on the ground floor. A
5 mobile office or mobile home may be used as an office if it is
6 connected to utilities and is set up in accordance with state law. A
7 statewide trade association representing manufactured housing dealers
8 shall be permitted to use a manufactured home as an office if the
9 office complies with all other applicable building code, zoning, and
10 other land-use regulatory ordinances. This subsection does not apply
11 to auction companies that do not own vehicle inventory or sell
12 vehicles from an auction yard.

13 (2) An auction company shall have office facilities within the
14 state. The books, records, and files necessary to conduct the
15 business shall be maintained at the office facilities. All storage
16 facilities for inventory shall be listed with the department, and
17 shall meet local zoning and land use ordinances. An auction company
18 shall maintain a telecommunications system.

19 (3) Auction companies shall post their vehicle dealer license at
20 each auction where vehicles are offered, and shall provide the
21 department with the address of the auction at least three days before
22 the auction.

23 (4) If a dealer maintains a place of business at more than one
24 location or under more than one name in this state, he or she shall
25 designate one location as the principal place of business of the
26 firm, one name as the principal name of the firm, and all other
27 locations or names as subagencies. A subagency license is required
28 for each and every subagency: PROVIDED, That the department may grant
29 an exception to the subagency requirement in the specific instance
30 where a licensed dealer is unable to locate their used vehicle sales
31 facilities adjacent to or at the established place of business. This
32 exception shall be granted and defined under the promulgation of
33 rules consistent with the administrative procedure act.

34 (5) All vehicle dealers shall maintain ownership or leasehold
35 throughout the license year of the real property from which they do
36 business. The dealer shall provide the department with evidence of
37 ownership or leasehold whenever the ownership changes or the lease is
38 terminated.

39 (6) A subagency shall comply with all requirements of an
40 established place of business, except that subagency records may be

1 kept at the principal place of business designated by the dealer.
2 Auction companies shall comply with the requirements in subsection
3 (2) of this section.

4 (7) A temporary subagency shall meet all local zoning and
5 building codes for the type of merchandising being conducted. The
6 dealer license certificate shall be posted at the location. No other
7 requirements of an established place of business apply to a temporary
8 subagency. Auction companies are not required to obtain a temporary
9 subagency license.

10 (8) A wholesale vehicle dealer shall have office facilities in a
11 commercial building within this state, with no more than two other
12 wholesale or retail vehicle dealers in the same building, and all
13 storage facilities for inventory shall be listed with the department,
14 and shall meet local zoning and land use ordinances. A wholesale
15 vehicle dealer shall maintain a telecommunications system. An
16 exterior sign visible from the nearest street shall identify the
17 business name and the nature of business. When two or more vehicle
18 dealer businesses share a location, all records, office facilities,
19 and inventory, if any, must be physically segregated and clearly
20 identified.

21 (9) A retail vehicle dealer shall be open during normal business
22 hours, maintain office and display facilities in a commercially zoned
23 location or in a location complying with all applicable building and
24 land use ordinances, and maintain a business telephone listing in the
25 local directory. When two or more vehicle dealer businesses share a
26 location, all records, office facilities, and inventory shall be
27 physically segregated and clearly identified.

28 (10) A subagency license is not required for a mobile home dealer
29 to display an on-site display model, a consigned mobile home not
30 relocated from its site, or a repossessed mobile home if sales are
31 handled from a principal place of business or subagency. A mobile
32 home dealer shall identify on-site display models, repossessed mobile
33 homes, and those consigned at their sites with a sign that includes
34 the dealer's name and telephone number.

35 (11) Every vehicle dealer shall advise the department of the
36 location of each and every place of business of the firm and the name
37 or names under which the firm is doing business at such location or
38 locations. If any name or location is changed, the dealer shall
39 notify the department of such change within ten days. The license
40 issued by the department shall reflect the name and location of the

1 firm and shall be posted in a conspicuous place at that location by
2 the dealer.

3 (12) A vehicle dealer's license shall upon the death or
4 incapacity of an individual vehicle dealer authorize the personal
5 representative of such dealer, subject to payment of license fees, to
6 continue the business for a period of six months from the date of the
7 death or incapacity.

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