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SENATE BILL 5112

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State of Washington

60th Legislature

2007 Regular Session

By Senators Schoesler, Kohl-Welles, Rasmussen, Pridemore, Clements, Sheldon, Morton, Hatfield and Honeyford

Read first time 01/10/2007. Referred to Committee on Labor, Commerce, Research & Development.

1 AN ACT Relating to auctioning vessels; and amending RCW 88.02.230  
2 and 46.70.011.

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

4 **Sec. 1.** RCW 88.02.230 and 1990 c 250 s 90 are each amended to read  
5 as follows:

6 (1) The department may exempt from compliance with the vessel  
7 dealer requirements of this chapter, any person who is engaged in the  
8 business of selling in this state at wholesale or retail, human-powered  
9 watercraft which is: (a) Under sixteen feet in length; (b) unable to  
10 be powered by propulsion machinery or wind propulsion as designed by  
11 the manufacturer; and (c) not designed for use on commonly-used  
12 navigable waters.

13 (2) Any person engaged in the business of selling at wholesale or  
14 retail, exempt and nonexempt watercraft under this section shall only  
15 be required to comply with the provisions of this chapter in regard to  
16 the sale of nonexempt watercraft.

17 (3) An auction company licensed under chapter 18.11 RCW and  
18 licensed as a motor vehicle dealer under chapter 46.70 RCW may sell at  
19 auction all vessels that a vessel dealer is authorized to sell, so long

1 as the sale of vessels is incidental to the auction company's primary  
2 source of business and the length of any vessel being sold is no  
3 greater than twenty-five feet.

4 **Sec. 2.** RCW 46.70.011 and 2006 c 364 s 1 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) "Recreational vehicle" means a travel trailer, motor home,  
18 truck camper, or camping trailer that is primarily designed and used as  
19 temporary living quarters, is either self-propelled or mounted on or  
20 drawn by another vehicle, is transient, is not occupied as a primary  
21 residence, and is not immobilized or permanently affixed to a mobile  
22 home lot.

23 (4) "Vehicle dealer" means any person, firm, association,  
24 corporation, or trust, not excluded by subsection (5) of this section,  
25 engaged in the business of buying, selling, listing, exchanging,  
26 offering, brokering, leasing with an option to purchase, auctioning,  
27 soliciting, or advertising the sale of new or used vehicles, or  
28 arranging or offering or attempting to solicit or negotiate on behalf  
29 of others, a sale, purchase, or exchange of an interest in new or used  
30 motor vehicles, irrespective of whether the motor vehicles are owned by  
31 that person. Vehicle dealers shall be classified as follows:

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

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

1 (c) A "miscellaneous vehicle dealer" is a vehicle dealer that deals  
2 in motorcycles or vehicles other than motor vehicles or mobile homes  
3 and travel trailers or any combination of such vehicles;

4 (d) A "recreational vehicle dealer" is a vehicle dealer that deals  
5 in travel trailers, motor homes, truck campers, or camping trailers  
6 that are primarily designed and used as temporary living quarters, are  
7 either self-propelled or mounted on or drawn by another vehicle, are  
8 transient, are not occupied as a primary residence, and are not  
9 immobilized or permanently affixed to a mobile home lot.

10 (5) The term "vehicle dealer" does not include, nor do the  
11 licensing requirements of RCW 46.70.021 apply to, the following  
12 persons, firms, associations, or corporations:

13 (a) Receivers, trustees, administrators, executors, guardians, or  
14 other persons appointed by, or acting under a judgment or order of, any  
15 court; or

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

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

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

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

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

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

34 (h) Any bank, trust company, savings bank, mutual savings bank,  
35 savings and loan association, credit union, and any parent, subsidiary,  
36 or affiliate thereof, authorized to do business in this state under  
37 state or federal law with respect to the sale or other disposition of  
38 a motor vehicle owned and used in their business; or with respect to

1 the acquisition and sale or other disposition of a motor vehicle in  
2 which the entity has acquired an interest as a lessor, lessee, or  
3 secured party; or

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

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

11 (7) "Department" means the department of licensing, which shall  
12 administer and enforce the provisions of this chapter.

13 (8) "Director" means the director of licensing.

14 (9) "Manufacturer" means any person, firm, association,  
15 corporation, or trust, resident or nonresident, who manufactures or  
16 assembles new and unused vehicles or remanufactures vehicles in whole  
17 or in part and further includes the terms:

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

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

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

34 (10) "Established place of business" means a location meeting the  
35 requirements of RCW 46.70.023(1) at which a vehicle dealer conducts  
36 business in this state.

37 (11) "Principal place of business" means that dealer firm's

1 business location in the state, which place the dealer designates as  
2 their principal place of business.

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

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

17 (14) "Wholesale vehicle dealer" means a vehicle dealer who buys and  
18 sells other than at retail.

19 (15) "Retail vehicle dealer" means a vehicle dealer who may buy and  
20 sell at both wholesale and retail.

21 (16) "Listing dealer" means a used mobile home dealer who makes  
22 contracts with sellers who will compensate the dealer for obtaining a  
23 willing purchaser for the seller's mobile home.

24 (17) "Auction" means a transaction conducted by means of exchanges  
25 between an auctioneer and the members of the audience, constituting a  
26 series of oral invitations for offers for the purchase of vehicles made  
27 by the auctioneer, offers to purchase by members of the audience, and  
28 the acceptance of the highest or most favorable offer to purchase.

29 (18) "Auction company" means a sole proprietorship, partnership,  
30 corporation, or other legal or commercial entity licensed under chapter  
31 18.11 RCW that only sells or offers to sell vehicles or vessels at  
32 auction or only arranges or sponsors auctions.

33 (19) "Buyer's agent" means any person, firm, partnership,  
34 association, limited liability company, limited liability partnership,  
35 or corporation retained or employed by a consumer to arrange for or to  
36 negotiate, or both, the purchase or lease of a new motor vehicle on  
37 behalf of the consumer, and who is paid a fee or receives other  
38 compensation from the consumer for its services.

1           (20) "New motor vehicle" means any motor vehicle that is self-  
2 propelled and is required to be registered and titled under Title 46  
3 RCW, has not been previously titled to a retail purchaser or lessee,  
4 and is not a "used vehicle" as defined under RCW 46.04.660.

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