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HOUSE BILL 1772

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State of Washington                      61st Legislature                      2009 Regular Session

By Representatives Williams, Wood, Nelson, Darneille, Green, and McCoy

Read first time 01/28/09. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to protecting consumers in the purchase of motor  
2 vehicles; amending RCW 46.70.011, 46.70.070, and 46.70.180; and adding  
3 a new section to chapter 46.70 RCW.

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

5            **Sec. 1.** RCW 46.70.011 and 2006 c 364 s 1 are each amended to read  
6 as follows:

7            As used in this chapter:

8            (1) "Vehicle" means and includes every device capable of being  
9 moved upon a public highway and in, upon, or by which any persons or  
10 property is or may be transported or drawn upon a public highway,  
11 excepting devices moved by human or animal power or used exclusively  
12 upon stationary rails or tracks.

13            (2) "Motor vehicle" means every vehicle which is self-propelled and  
14 every vehicle which is propelled by electric power obtained from  
15 overhead trolley wires, but not operated upon rails, and which is  
16 required to be registered and titled under this title (~~46 RCW, Motor~~  
17 ~~Vehieles~~)).

18            (3) "Recreational vehicle" means a travel trailer, motor home,  
19 truck camper, or camping trailer that is primarily designed and used as

1 temporary living quarters, is either self-propelled or mounted on or  
2 drawn by another vehicle, is transient, is not occupied as a primary  
3 residence, and is not immobilized or permanently affixed to a mobile  
4 home lot.

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

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

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

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

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

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

31 (a) Receivers, trustees, administrators, executors, guardians, or  
32 other persons appointed by, or acting under a judgment or order of, any  
33 court; or

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

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

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

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

4 (f) A real estate broker licensed under chapter 18.85 RCW, or an  
5 affiliated licensee, who, on behalf of another negotiates the purchase,  
6 sale, lease, or exchange of a manufactured or mobile home in  
7 conjunction with the purchase, sale, exchange, rental, or lease of the  
8 land upon which the manufactured or mobile home is, or will be,  
9 located; or

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

14 (h) Any bank, trust company, savings bank, mutual savings bank,  
15 savings and loan association, credit union, and any parent, subsidiary,  
16 or affiliate thereof, authorized to do business in this state under  
17 state or federal law with respect to the sale or other disposition of  
18 a motor vehicle owned and used in their business; or with respect to  
19 the acquisition and sale or other disposition of a motor vehicle in  
20 which the entity has acquired an interest as a lessor, lessee, or  
21 secured party; or

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

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

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

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

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

36 (a) "Distributor," which means any person, firm, association,  
37 corporation, or trust, resident or nonresident, who in whole or in part

1 offers for sale, sells, or distributes any new and unused vehicle to  
2 vehicle dealers or who maintains factory representatives.

3 (b) "Factory branch," which means a branch office maintained by a  
4 manufacturer for the purpose of selling or offering for sale, vehicles  
5 to a distributor, wholesaler, or vehicle dealer, or for directing or  
6 supervising in whole or in part factory or distributor representatives,  
7 and further includes any sales promotion organization, whether a  
8 person, firm, or corporation, which is engaged in promoting the sale of  
9 new and unused vehicles in this state of a particular brand or make to  
10 vehicle dealers.

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

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

18 (11) "Principal place of business" means that dealer firm's  
19 business location in the state, which place the dealer designates as  
20 their principal place of business.

21 (12) "Subagency" means any place of business of a vehicle dealer  
22 within the state, which place is physically and geographically  
23 separated from the principal place of business of the firm or any place  
24 of business of a vehicle dealer within the state, at which place the  
25 firm does business using a name other than the principal name of the  
26 firm, or both.

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

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

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

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

4 (17) "Auction" means a transaction conducted by means of exchanges  
5 between an auctioneer and the members of the audience, constituting a  
6 series of oral invitations for offers for the purchase of vehicles made  
7 by the auctioneer, offers to purchase by members of the audience, and  
8 the acceptance of the highest or most favorable offer to purchase.

9 (18) "Auction company" means a sole proprietorship, partnership,  
10 corporation, or other legal or commercial entity licensed under chapter  
11 18.11 RCW that only sells or offers to sell vehicles at auction or only  
12 arranges or sponsors auctions.

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

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

23 (21) "Defect" means:

24 (a) A malfunction or nonconformity in any component part of a motor  
25 vehicle that impedes the buyer's ability to control or operate the used  
26 motor vehicle for ordinary use or reasonable intended purposes and for  
27 which the cost of repairs for the defect exceeds two hundred dollars  
28 for parts and labor; or

29 (b) Any unrepaired damage sustained by the motor vehicle due to  
30 fire, water, collision, or other causes for which the combined cost of  
31 repairs for all the damage exceeds two hundred dollars for parts and  
32 labor.

33 (22) "Component part" means, either individually or collectively,  
34 the vehicle's: Engine; drivetrain; frame; suspension system; brakes;  
35 steering mechanism; wheel alignment; lights; odometer; tires and tire  
36 pressure; seats and shoulder harness safety belts; airbags and any  
37 other passive or supplemental restraint system; and other mechanisms

1 and equipment determined by the director or department to be necessary  
2 for the normal and safe operations of a motor vehicle.

3 (23) "Drivetrain" means those components and systems within a motor  
4 vehicle that transfer power from the engine of the vehicle to the  
5 wheels of the vehicle, including a transmission, driveshaft, clutch,  
6 torque converter, differential, universal joint, and constant velocity  
7 joint.

8 (24) "Known" means that a vehicle dealer or the vehicle dealer's  
9 agent or employee has obtained facts or information about the condition  
10 of a used vehicle that would lead a reasonable person in similar  
11 circumstances to believe that the used vehicle contained a defect.  
12 "Known" encompasses knowledge obtained through an inspection, from a  
13 previous owner, from the salesperson at an auction or another vehicle  
14 dealer, or through any other means.

15 **Sec. 2.** RCW 46.70.070 and 2001 c 272 s 13 are each amended to read  
16 as follows:

17 (1) Before issuing a vehicle dealer's license, the department shall  
18 require the applicant to file with the department a surety bond in the  
19 amount of:

20 (a) ~~((Thirty))~~ One hundred thousand dollars for motor vehicle  
21 dealers that have more than fifty vehicles offered for sale at any  
22 time;

23 (b) Fifty thousand dollars for motor vehicle dealers that have more  
24 than nine and fewer than fifty vehicles offered for sale at any time;

25 (c) Thirty thousand dollars for all other motor vehicle dealers,  
26 including motor vehicle dealers organized as or operated by a nonprofit  
27 corporation under Title 24 RCW that has a primarily philanthropic or  
28 charitable purpose;

29 ~~((b))~~ (d) Thirty thousand dollars for mobile home, park trailer,  
30 and travel trailer dealers;

31 ~~((e))~~ (e) Five thousand dollars for miscellaneous dealers,  
32 running to the state, and executed by a surety company authorized to do  
33 business in the state. Such bond shall be approved by the attorney  
34 general as to form and conditioned that the dealer shall conduct his or  
35 her business in conformity with the provisions of this chapter.

36 Any retail purchaser, consignor who is not a motor vehicle dealer,  
37 or a motor vehicle dealer who has purchased from, sold to, or otherwise

1 transacted business with a wholesale dealer, who has suffered any loss  
2 or damage by reason of breach of warranty or by any act by a dealer  
3 which constitutes a violation of this chapter shall have the right to  
4 institute an action for recovery against such dealer and the surety  
5 upon such bond. However, under this section, motor vehicle dealers who  
6 have purchased from, sold to, or otherwise transacted business with  
7 wholesale dealers may only institute actions against wholesale dealers  
8 and their surety bonds. Successive recoveries against said bond shall  
9 be permitted, but the aggregate liability of the surety to all persons  
10 shall in no event exceed the amount of the bond. Upon exhaustion of  
11 the penalty of said bond or cancellation of the bond by the surety the  
12 vehicle dealer license shall automatically be deemed canceled.

13 (2) Except for nonprofit motor vehicle dealers identified in  
14 subsection (1)(c) of this section, the bond for any vehicle dealer  
15 licensed or to be licensed under more than one classification shall be  
16 the highest bond required for any such classification.

17 (3) Vehicle dealers shall maintain a bond for each business  
18 location in this state and bond coverage for all temporary subagencies.

19 **Sec. 3.** RCW 46.70.180 and 2007 c 155 s 2 are each amended to read  
20 as follows:

21 Each of the following acts or practices is unlawful:

22 (1) To cause or permit to be advertised, printed, displayed,  
23 published, distributed, broadcasted, televised, or disseminated in any  
24 manner whatsoever, any statement or representation with regard to the  
25 sale, lease, or financing of a vehicle which is false, deceptive, or  
26 misleading, including but not limited to the following:

27 (a) That no down payment is required in connection with the sale of  
28 a vehicle when a down payment is in fact required, or that a vehicle  
29 may be purchased for a smaller down payment than is actually required;

30 (b) That a certain percentage of the sale price of a vehicle may be  
31 financed when such financing is not offered in a single document  
32 evidencing the entire security transaction;

33 (c) That a certain percentage is the amount of the service charge  
34 to be charged for financing, without stating whether this percentage  
35 charge is a monthly amount or an amount to be charged per year;

36 (d) That a new vehicle will be sold for a certain amount above or

1 below cost without computing cost as the exact amount of the factory  
2 invoice on the specific vehicle to be sold;

3 (e) That a vehicle will be sold upon a monthly payment of a certain  
4 amount, without including in the statement the number of payments of  
5 that same amount which are required to liquidate the unpaid purchase  
6 price.

7 (2)(a) To incorporate within the terms of any purchase and sale or  
8 lease agreement any statement or representation with regard to the  
9 sale, lease, or financing of a vehicle which is false, deceptive, or  
10 misleading, including but not limited to terms that include as an added  
11 cost to the selling price or capitalized cost of a vehicle an amount  
12 for licensing or transfer of title of that vehicle which is not  
13 actually due to the state, unless such amount has in fact been paid by  
14 the dealer prior to such sale. However, an amount not to exceed fifty  
15 dollars per vehicle sale or lease may be charged by a dealer to recover  
16 administrative costs for collecting motor vehicle excise taxes,  
17 licensing and registration fees and other agency fees, verifying and  
18 clearing titles, transferring titles, perfecting, releasing, or  
19 satisfying liens or other security interests, and other administrative  
20 and documentary services rendered by a dealer in connection with the  
21 sale or lease of a vehicle and in carrying out the requirements of this  
22 chapter or any other provisions of state law.

23 (b) A dealer may charge the documentary service fee in (a) of this  
24 subsection under the following conditions:

25 (i) The documentary service fee is disclosed in writing to a  
26 prospective purchaser or lessee before the execution of a purchase and  
27 sale or lease agreement;

28 (ii) The documentary service fee is not represented to the  
29 purchaser or lessee as a fee or charge required by the state to be paid  
30 by either the dealer or prospective purchaser or lessee;

31 (iii) The documentary service fee is separately designated from the  
32 selling price or capitalized cost of the vehicle and from any other  
33 taxes, fees, or charges; and

34 (iv) Dealers disclose in any advertisement that a documentary  
35 service fee in an amount up to fifty dollars may be added to the sale  
36 price or the capitalized cost.

37 For the purposes of this subsection (2), the term "documentary



1 service fee" means the optional amount charged by a dealer to provide  
2 the services specified in (a) of this subsection.

3 (3) To set up, promote, or aid in the promotion of a plan by which  
4 vehicles are to be sold or leased to a person for a consideration and  
5 upon further consideration that the purchaser or lessee agrees to  
6 secure one or more persons to participate in the plan by respectively  
7 making a similar purchase and in turn agreeing to secure one or more  
8 persons likewise to join in said plan, each purchaser or lessee being  
9 given the right to secure money, credits, goods, or something of value,  
10 depending upon the number of persons joining the plan.

11 (4) To commit, allow, or ratify any act of "bushing" which is  
12 defined as follows: Entering into a written contract, written purchase  
13 order or agreement, retail installment sales agreement, note and  
14 security agreement, or written lease agreement, hereinafter  
15 collectively referred to as contract or lease, signed by the  
16 prospective buyer or lessee of a vehicle, which:

17 (a) Is subject to any conditions or the dealer's or his or her  
18 authorized representative's future acceptance, and the dealer fails or  
19 refuses within four calendar days, exclusive of Saturday, Sunday, or  
20 legal holiday, and prior to any further negotiations with said buyer or  
21 lessee to inform the buyer or lessee either: (i) That the dealer  
22 unconditionally accepts the contract or lease, having satisfied,  
23 removed, or waived all conditions to acceptance or performance,  
24 including, but not limited to, financing, assignment, or lease  
25 approval; or (ii) that the dealer rejects the contract or lease,  
26 thereby automatically voiding the contract or lease, as long as such  
27 voiding does not negate commercially reasonable contract or lease  
28 provisions pertaining to the return of the subject vehicle and any  
29 physical damage, excessive mileage after the demand for return of the  
30 vehicle, and attorneys' fees authorized by law, and tenders the refund  
31 of any initial payment or security made or given by the buyer or  
32 lessee, including, but not limited to, any down payment, and tenders  
33 return of the trade-in vehicle, key, other trade-in, or certificate of  
34 title to a trade-in. Tender may be conditioned on return of the  
35 subject vehicle if previously delivered to the buyer or lessee.

36 The provisions of this subsection (4)(a) do not impair, prejudice,  
37 or abrogate the rights of a dealer to assert a claim against the buyer  
38 or lessee for misrepresentation or breach of contract and to exercise

1 all remedies available at law or in equity, including those under  
2 chapter 62A.9A RCW, if the dealer, bank, or other lender or leasing  
3 company discovers that approval of the contract or financing or  
4 approval of the lease was based upon material misrepresentations made  
5 by the buyer or lessee, including, but not limited to,  
6 misrepresentations regarding income, employment, or debt of the buyer  
7 or lessee, as long as the dealer, or his or her staff, has not, with  
8 knowledge of the material misrepresentation, aided, assisted,  
9 encouraged, or participated, directly or indirectly, in the  
10 misrepresentation. A dealer shall not be in violation of this  
11 subsection (4)(a) if the buyer or lessee made a material  
12 misrepresentation to the dealer, as long as the dealer, or his or her  
13 staff, has not, with knowledge of the material misrepresentation,  
14 aided, assisted, encouraged, or participated, directly or indirectly,  
15 in the misrepresentation.

16 When a dealer informs a buyer or lessee under this subsection  
17 (4)(a) regarding the unconditional acceptance or rejection of the  
18 contract, lease, or financing by an electronic mail message, the dealer  
19 must also transmit the communication by any additional means;

20 (b) Permits the dealer to renegotiate a dollar amount specified as  
21 trade-in allowance on a vehicle delivered or to be delivered by the  
22 buyer or lessee as part of the purchase price or lease, for any reason  
23 except:

24 (i) Failure to disclose that the vehicle's certificate of ownership  
25 has been branded for any reason, including, but not limited to, status  
26 as a rebuilt vehicle as provided in RCW 46.12.050 and 46.12.075; or

27 (ii) Substantial physical damage or latent mechanical defect  
28 occurring before the dealer took possession of the vehicle and which  
29 could not have been reasonably discoverable at the time of the taking  
30 of the order, offer, or contract; or

31 (iii) Excessive additional miles or a discrepancy in the mileage.  
32 "Excessive additional miles" means the addition of five hundred miles  
33 or more, as reflected on the vehicle's odometer, between the time the  
34 vehicle was first valued by the dealer for purposes of determining its  
35 trade-in value and the time of actual delivery of the vehicle to the  
36 dealer. "A discrepancy in the mileage" means (A) a discrepancy between  
37 the mileage reflected on the vehicle's odometer and the stated mileage

1 on the signed odometer statement; or (B) a discrepancy between the  
2 mileage stated on the signed odometer statement and the actual mileage  
3 on the vehicle; or

4 (c) Fails to comply with the obligation of any written warranty or  
5 guarantee given by the dealer requiring the furnishing of services or  
6 repairs within a reasonable time.

7 (5) To commit any offense relating to odometers, as such offenses  
8 are defined in RCW 46.37.540, 46.37.550, 46.37.560, and 46.37.570. A  
9 violation of this subsection is a class C felony punishable under  
10 chapter 9A.20 RCW.

11 (6) For any vehicle dealer or vehicle salesperson to refuse to  
12 furnish, upon request of a prospective purchaser or lessee, for  
13 vehicles previously registered to a business or governmental entity,  
14 the name and address of the business or governmental entity.

15 (7) To commit any other offense under RCW 46.37.423, 46.37.424, or  
16 46.37.425.

17 (8) To commit any offense relating to a dealer's temporary license  
18 permit, including but not limited to failure to properly complete each  
19 such permit, or the issuance of more than one such permit on any one  
20 vehicle. However, a dealer may issue a second temporary permit on a  
21 vehicle if the following conditions are met:

22 (a) The lienholder fails to deliver the vehicle title to the dealer  
23 within the required time period;

24 (b) The dealer has satisfied the lien; and

25 (c) The dealer has proof that payment of the lien was made within  
26 two calendar days, exclusive of Saturday, Sunday, or a legal holiday,  
27 after the sales contract has been executed by all parties and all  
28 conditions and contingencies in the sales contract have been met or  
29 otherwise satisfied.

30 (9) For a dealer, salesperson, or mobile home manufacturer, having  
31 taken an instrument or cash "on deposit" from a purchaser or lessee  
32 prior to the delivery of the bargained-for vehicle, to commingle the  
33 "on deposit" funds with assets of the dealer, salesperson, or mobile  
34 home manufacturer instead of holding the "on deposit" funds as trustee  
35 in a separate trust account until the purchaser or lessee has taken  
36 delivery of the bargained-for vehicle. Delivery of a manufactured home  
37 shall be deemed to occur in accordance with RCW 46.70.135(5). Failure,  
38 immediately upon receipt, to endorse "on deposit" instruments to such

1 a trust account, or to set aside "on deposit" cash for deposit in such  
2 trust account, and failure to deposit such instruments or cash in such  
3 trust account by the close of banking hours on the day following  
4 receipt thereof, shall be evidence of intent to commit this unlawful  
5 practice: PROVIDED, HOWEVER, That a motor vehicle dealer may keep a  
6 separate trust account which equals his or her customary total customer  
7 deposits for vehicles for future delivery. For purposes of this  
8 section, "on deposit" funds received from a purchaser of a manufactured  
9 home means those funds that a seller requires a purchaser to advance  
10 before ordering the manufactured home, but does not include any loan  
11 proceeds or moneys that might have been paid on an installment  
12 contract.

13 (10) For a dealer or manufacturer to fail to comply with the  
14 obligations of any written warranty or guarantee given by the dealer or  
15 manufacturer requiring the furnishing of goods and services or repairs  
16 within a reasonable period of time, or to fail to furnish to a  
17 purchaser or lessee, all parts which attach to the manufactured unit  
18 including but not limited to the undercarriage, and all items specified  
19 in the terms of a sales or lease agreement signed by the seller and  
20 buyer or lessee.

21 (11) For a vehicle dealer to pay to or receive from any person,  
22 firm, partnership, association, or corporation acting, either directly  
23 or through a subsidiary, as a buyer's agent for consumers, any  
24 compensation, fee, purchase moneys or funds that have been deposited  
25 into or withdrawn out of any account controlled or used by any buyer's  
26 agent, gratuity, or reward in connection with the purchase, sale, or  
27 lease of a new motor vehicle.

28 (12) For a buyer's agent, acting directly or through a subsidiary,  
29 to pay to or to receive from any motor vehicle dealer any compensation,  
30 fee, gratuity, or reward in connection with the purchase, sale, or  
31 lease of a new motor vehicle. In addition, it is unlawful for any  
32 buyer's agent to engage in any of the following acts on behalf of or in  
33 the name of the consumer:

34 (a) Receiving or paying any purchase moneys or funds into or out of  
35 any account controlled or used by any buyer's agent;

36 (b) Signing any vehicle purchase orders, sales contracts, leases,  
37 odometer statements, or title documents, or having the name of the

1 buyer's agent appear on the vehicle purchase order, sales contract,  
2 lease, or title; or

3 (c) Signing any other documentation relating to the purchase, sale,  
4 lease, or transfer of any new motor vehicle.

5 It is unlawful for a buyer's agent to use a power of attorney  
6 obtained from the consumer to accomplish or effect the purchase, sale,  
7 lease, or transfer of ownership documents of any new motor vehicle by  
8 any means which would otherwise be prohibited under (a) through (c) of  
9 this subsection. However, the buyer's agent may use a power of  
10 attorney for physical delivery of motor vehicle license plates to the  
11 consumer.

12 Further, it is unlawful for a buyer's agent to engage in any false,  
13 deceptive, or misleading advertising, disseminated in any manner  
14 whatsoever, including but not limited to making any claim or statement  
15 that the buyer's agent offers, obtains, or guarantees the lowest price  
16 on any motor vehicle or words to similar effect.

17 (13) For a buyer's agent to arrange for or to negotiate the  
18 purchase, or both, of a new motor vehicle through an out-of-state  
19 dealer without disclosing in writing to the customer that the new  
20 vehicle would not be subject to chapter 19.118 RCW. This subsection  
21 also applies to leased vehicles. In addition, it is unlawful for any  
22 buyer's agent to fail to have a written agreement with the customer  
23 that: (a) Sets forth the terms of the parties' agreement; (b)  
24 discloses to the customer the total amount of any fees or other  
25 compensation being paid by the customer to the buyer's agent for the  
26 agent's services; and (c) further discloses whether the fee or any  
27 portion of the fee is refundable.

28 (14) Being a manufacturer, other than a motorcycle manufacturer  
29 governed by chapter 46.93 RCW, to:

30 (a) Coerce or attempt to coerce any vehicle dealer to order or  
31 accept delivery of any vehicle or vehicles, parts or accessories, or  
32 any other commodities which have not been voluntarily ordered by the  
33 vehicle dealer: PROVIDED, That recommendation, endorsement,  
34 exposition, persuasion, urging, or argument are not deemed to  
35 constitute coercion;

36 (b) Cancel or fail to renew the franchise or selling agreement of  
37 any vehicle dealer doing business in this state without fairly  
38 compensating the dealer at a fair going business value for his or her

1 capital investment which shall include but not be limited to tools,  
2 equipment, and parts inventory possessed by the dealer on the day he or  
3 she is notified of such cancellation or termination and which are still  
4 within the dealer's possession on the day the cancellation or  
5 termination is effective, if: (i) The capital investment has been  
6 entered into with reasonable and prudent business judgment for the  
7 purpose of fulfilling the franchise; and (ii) the cancellation or  
8 nonrenewal was not done in good faith. Good faith is defined as the  
9 duty of each party to any franchise to act in a fair and equitable  
10 manner towards each other, so as to guarantee one party freedom from  
11 coercion, intimidation, or threats of coercion or intimidation from the  
12 other party: PROVIDED, That recommendation, endorsement, exposition,  
13 persuasion, urging, or argument are not deemed to constitute a lack of  
14 good faith;

15 (c) Encourage, aid, abet, or teach a vehicle dealer to sell or  
16 lease vehicles through any false, deceptive, or misleading sales or  
17 financing practices including but not limited to those practices  
18 declared unlawful in this section;

19 (d) Coerce or attempt to coerce a vehicle dealer to engage in any  
20 practice forbidden in this section by either threats of actual  
21 cancellation or failure to renew the dealer's franchise agreement;

22 (e) Refuse to deliver any vehicle publicly advertised for immediate  
23 delivery to any duly licensed vehicle dealer having a franchise or  
24 contractual agreement for the retail sale or lease of new and unused  
25 vehicles sold or distributed by such manufacturer within sixty days  
26 after such dealer's order has been received in writing unless caused by  
27 inability to deliver because of shortage or curtailment of material,  
28 labor, transportation, or utility services, or by any labor or  
29 production difficulty, or by any cause beyond the reasonable control of  
30 the manufacturer;

31 (f) To provide under the terms of any warranty that a purchaser or  
32 lessee of any new or unused vehicle that has been sold or leased,  
33 distributed for sale or lease, or transferred into this state for  
34 resale or lease by the vehicle manufacturer may only make any warranty  
35 claim on any item included as an integral part of the vehicle against  
36 the manufacturer of that item.

37 Nothing in this section may be construed to impair the obligations  
38 of a contract or to prevent a manufacturer, distributor,

1 representative, or any other person, whether or not licensed under this  
2 chapter, from requiring performance of a written contract entered into  
3 with any licensee hereunder, nor does the requirement of such  
4 performance constitute a violation of any of the provisions of this  
5 section if any such contract or the terms thereof requiring  
6 performance, have been freely entered into and executed between the  
7 contracting parties. This paragraph and subsection (14)(b) of this  
8 section do not apply to new motor vehicle manufacturers governed by  
9 chapter 46.96 RCW.

10 (15) Unlawful transfer of an ownership interest in a motor vehicle  
11 as defined in RCW 19.116.050.

12 (16) To knowingly and intentionally engage in collusion with a  
13 registered owner of a vehicle to repossess and return or resell the  
14 vehicle to the registered owner in an attempt to avoid a suspended  
15 license impound under chapter 46.55 RCW. However, compliance with  
16 chapter 62A.9A RCW in repossessing, selling, leasing, or otherwise  
17 disposing of the vehicle, including providing redemption rights to the  
18 debtor, is not a violation of this section.

19 (17)(a) Except as provided in (b) of this subsection, to enter into  
20 a written contract, written purchase order or agreement, retail  
21 installment sales agreement, or note and security agreement, signed by  
22 the prospective buyer of a used vehicle, which attempts to disclaim,  
23 exclude, or modify any implied warranties of merchantability or fitness  
24 for a particular purpose as to any known defect or to disclaim,  
25 exclude, or modify the buyer's remedies for breach of those warranties  
26 as to any known defect.

27 (b) The parties may agree as provided in RCW 62A.2-316 that the  
28 buyer disclaims the warranties of merchantability or fitness of  
29 purpose, or both, regarding any existing, known defect that the vehicle  
30 dealer has disclosed to the buyer in writing prior to the buyer signing  
31 any contract or agreement to purchase the vehicle. It is the vehicle  
32 dealer's burden to prove that the buyer purchased the vehicle with  
33 actual knowledge of the defect and agreed to accept the vehicle in that  
34 condition.

35 (c) If the buyer discovers an undisclosed defect in any component  
36 part within one hundred eighty days of purchase, the buyer may choose  
37 to void the transaction or seek any other appropriate remedy under this  
38 chapter or any other applicable chapter, provided that the undisclosed

1 defect existed at the time of purchase and was known to the vehicle  
2 dealer and the buyer contacts the vehicle dealer within thirty days of  
3 the buyer's discovery of the defect. It is the vehicle dealer's burden  
4 to prove that the defect was not known or did not exist at the time of  
5 sale.

6 (18) To offer for sale any used vehicle without first conducting a  
7 reasonably thorough inspection of the soundness and safety of the used  
8 vehicle's component parts or sell or transfer any used vehicle without  
9 first disclosing in clear and conspicuous writing the existence of any  
10 known defect to the buyer or transferee.

11 (19) To misrepresent the condition of a motor vehicle.

12 (20) To state directly or by implication that a used motor vehicle,  
13 or any component part of the used motor vehicle, is free from defect at  
14 the time of sale, unless the vehicle dealer has a reasonable basis for  
15 making such statement or implication.

16 (21) To fail to comply with the requirements of section 4 of this  
17 act.

18 NEW SECTION. Sec. 4. A new section is added to chapter 46.70 RCW  
19 to read as follows:

20 (1) Except as provided in subsection (3) of this section, any  
21 vehicle dealer that primarily negotiates a vehicle purchase in any  
22 language other than English shall deliver to the buyer a translation,  
23 written in the language in which the deal was negotiated, of any  
24 document material to the purchase, including any written contract,  
25 written purchase order or an agreement, retail installment sales  
26 agreement, note and security agreement, and any disclosures required by  
27 state or federal law before any such document is executed or agreed to  
28 by the buyer or an agreement is reached between the parties. The  
29 vehicle dealer shall ensure that the buyer sign each translation if the  
30 buyer is also required to sign the English language version of the  
31 translated document.

32 (2) Any vehicle dealer that primarily negotiates a vehicle purchase  
33 in any language other than English shall conspicuously display a  
34 written notice in that language at the time and place where the used  
35 vehicle purchase was negotiated. The notice must state that the  
36 vehicle dealer is required to provide a translation of all documents  
37 material to the purchase, including any sales contract, retail



1 installment contract, documents related to financing a used vehicle  
2 purchase, and any disclosures required by state or federal law before  
3 the parties reach a final agreement on the vehicle transaction in the  
4 language in which the purchase was negotiated.

5 (3) A translation under this section may retain the following  
6 elements of the executed English language contract or agreement without  
7 translation: Names and titles of individuals and other persons;  
8 addresses; brand names; trade names; trademarks; registered service  
9 marks; full or abbreviated designations of the make and model of goods  
10 or services; alphanumeric codes; numerals; dollar amounts expressed in  
11 numerals; dates; and individual words or expressions having no  
12 generally accepted non-English translation.

13 (4) The terms of the documents that are executed in the English  
14 language determine the rights and obligations of the parties. However,  
15 the translation of the documents required under subsection (1) of this  
16 section are admissible in evidence to show that no contract was entered  
17 into because of a difference in the material terms and conditions of  
18 the English language documents and the translations.

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