

HOUSE BILL REPORT

HB 2179

As Reported By House Committee On:

Transportation

Title: An act relating to new motor vehicle transactions involving buyer's agents.

Brief Description: Regulating motor vehicle transactions involving buyer's agents.

Sponsors: Representatives Horn, Blanton, Scott, Mitchell, Quall and Thompson.

Brief History:

Committee Activity:

Transportation: 1/17/96, 1/29/96 [DPS].

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 24 members: Representatives K. Schmidt, Chairman; Benton, Vice Chairman; Mitchell, Vice Chairman; Skinner, Vice Chairman; Hatfield; Backlund; Blanton; Buck; Cairnes; Chandler; Chopp; Elliot; Hankins; Horn; Johnson; McMahan; Ogden; Quall; Robertson; Romero; D. Schmidt; Scott; Sterk and Tokuda.

Staff: Jeff Doyle (786-7322).

Background: A buyer's agent is a person or firm paid by a consumer to negotiate or arrange for the purchase of a new vehicle on the consumer's behalf. A buyer's agent must maintain the same type of surety bond as vehicle dealers, currently a \$15,000 bond.

A typical buyer's agent is hired and paid by a prospective buyer. The buyer's agent then negotiates with several auto dealerships to obtain a discounted price for the consumer. These types of firms are not permitted to accept payment from dealers for their services.

Not all car-buying services operate in this manner. Some companies that perform car-buying services do not specifically represent either the buyer or seller. These companies typically offer discounted prices on new cars to their members. In order to obtain the discounted price, the member must travel to the dealership to fill out the necessary paperwork and deliver the purchase money. These types of companies do

not collect fees from their members, but rather receive promotional fees from participating auto dealerships.

There is some question as to whether a firm may represent both car buyers and car sellers (dealerships). This type of service would be similar to a real estate agent, who has a client base consisting of home sellers and has a separate client base of home buyers.

Under current Washington law, it is not clear which types of car-buying services require a vehicle dealer's license and which services are regulated under the buyer's agent statute.

Summary of Substitute Bill: Buyer's agents may not accept purchase moneys unless made payable to the vehicle dealership. Buyer's agents are prohibited from signing any purchase moneys, purchase orders, sales contracts, disclosure documents or other forms on behalf of the customer. Buyer's agents are prohibited from using a power of attorney to conduct these activities, with one exception: a buyer's agent may pick up and deliver license plates to the customer.

A buyer's agents must have written agreements with his or her customers disclosing all fees and compensation paid for the agent's services. The agreements must also include a disclosure that any vehicles purchased outside of Washington are not protected by Washington's "lemon law." The Department of Licensing (DOL) is directed to develop a standard form contract to be used by buyer's agents and their customers.

Substitute Bill Compared to Original Bill: The definition of buyer's agent remains unchanged from existing law.

The surety bond required of buyer's agents and brokers remains at \$15,000, rather than being increased to \$50,000.

Buyer's agents may accept a power of attorney for the purpose of picking up and delivering license plates to the customer.

DOL is directed to develop an acceptable standard form contract to be used by buyer's agents and their customers.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: All parties are working on a companion bill.

Testimony Against: The definition of buyer's agent is much too broad in the original bill as it would unwittingly regulate discount car buying services offered by membership organizations such as AAA, Costco, and credit unions.

Raising the surety bond to \$50,000 may have the unintentional effect of driving used car dealers out of business.

Testified: Representative Jim Horn, prime sponsor (pro on substitute); Jim Boldt, Washington State Auto Dealers (con); Bill Fritz, Independent Auto Dealers Association (pro on substitute); and Gary Gardner, credit union interests (pro on substitute).