

HOUSE BILL REPORT

SHB 1873

As Passed Legislature

Title: An act relating to consumer leases.

Brief Description: Regulating consumer leases.

Sponsors: By House Committee on Law & Justice (originally sponsored by Representatives Padden and Costa; by request of Attorney General).

Brief History:

Committee Activity:

Law & Justice: 2/10/95, 2/15/95 [DPS].

Floor Activity:

Passed House: 3/8/95, 98-0.

Passed Legislature.

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Padden, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Appelwick, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Campbell; Carrell; Chappell; Cody; Lambert; McMahan; Morris; Robertson; Sheahan; Smith; Thibaudeau and Veloria.

Staff: Lissa Kaufman (786-5793).

Background: When an individual leases a motor vehicle, he or she enters into a lease agreement with a dealer or an independent leasing company. Under some lease agreements, the individual (lessee) pays a periodic lease payment for a fixed period of time. After the lease period expires, the lessee is given the option to purchase the vehicle. If the lessee does not buy the vehicle, the lease terminates. If the lessee breaks the lease before the lease period expires, he or she may be subject to significant financial consequences. This type of lease is called a closed end lease.

In a closed end lease, the periodic lease payments are based on the motor vehicle's "adjusted capitalized cost." To determine the adjusted capitalized cost, the dealer (lessor) assigns an overall value, or "capitalized cost" to the motor vehicle. Any money paid to the dealer at the beginning of the lease, or the "capitalized cost reduction," is then subtracted from the overall value of the motor vehicle.

The federal Consumer Leasing Act and state law regulate leases of personal property when the total contractual obligation does not exceed \$25,000. Neither federal nor state law requires the lessor to disclose to the lessee the capitalized cost, the capitalized cost reduction, or the adjusted capitalized cost of a motor vehicle in closed end leases. In addition, neither law requires lease agreements to explicitly state the potential costs associated with breaking closed end leases.

The Consumer Protection Act prohibits certain trade or commercial practices. A practice violates the Consumer Protection Act if it is unfair or deceptive, if it affects the public interest, if it occurs in the context of trade or commerce, and if consumers are damaged as a result of the practice. A practice does not violate the Consumer Protection Act if it is reasonable in relation to the development or preservation of business. Violations of the state law regulating consumer leasing are unfair practices in commerce for the purpose of applying the Consumer Protection Act.

In Washington, lessors of motor vehicles often use a separate document to explain the Washington sales tax exemption for the value of a traded motor vehicle. Federal law requires that a single document lay out all terms and conditions of a lease agreement. State law is silent on this issue.

Summary of Bill: Consumer leases of automobiles are not subject to the \$25,000 limitation on the total contractual obligation for application of the state law regulating consumer leases.

The terms "capitalized cost," "capitalized cost reduction," and "adjusted capitalized cost" are defined. "Capitalized cost" is the value the lessor ascribes to the vehicle being leased. The capitalized cost includes optional equipment, taxes, fees, insurance, and other charges. The "adjusted capitalized cost" is the capitalized cost reduced by any "capitalized cost reduction," defined as any payment, trade, or rebate granted by the lessor at the beginning of the lease made for the purpose of reducing the capitalized cost. The adjusted capitalized cost serves as the basis for determining the periodic lease payments.

In consumer leases of motor vehicles, the lessor must disclose the capitalized cost, capitalized cost reduction, and adjusted capitalized cost to the lessee. The capitalized cost and capitalized cost reduction amounts must be itemized. The lease agreement must contain a warning statement about costs associated with early termination of leases. The agreement must also contain a statement of the amount of any sales tax exemption on a trade in value as it applies to the periodic lease payments.

The following practices are unlawful: (1) false, deceptive, or misleading advertising; (2) misrepresenting material terms or conditions of the lease agreement, that the lease agreement is a purchase agreement, or that the consumer will have equity in the

vehicle at the end of the lease term; or (3) failure to comply with the federal Consumer Leasing Act.

For purposes of the Consumer Protection Act, practices covered by state laws governing consumer leases affect the public interest. A violation of state laws governing consumer leases constitutes unfair competition. In addition, violations of state laws governing consumer leases are not reasonable in relation to the development and preservation of business. These provisions make violations of state laws governing consumer leases per se violations of the Consumer Protection Act. A court may award damages under either federal or state law, but not both.

The provisions of the state laws governing consumer leases are cumulative and not exclusive of other available remedies.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Bill: The bill takes effect January 1, 1996.

Testimony For: Often consumers leasing motor vehicles do not understand their lease transactions. The bill allows consumers to make wise and informed decisions when leasing motor vehicles and reduces the likelihood of disputes arising between consumers and leasing companies.

Testimony Against: None.

Testified: Christine Gregoire, Attorney General (pro); Doug Walsh, Assistant Attorney General (pro); Jim Boldt, Washington Automobile Dealers (pro); and Becky Bogard, Washington State Association of Broadcasters (pro).