
SUBSTITUTE SENATE BILL 6173

State of Washington

54th Legislature

1996 Regular Session

By Senate Committee on Labor, Commerce & Trade (originally sponsored by Senators Haugen and Schow)

Read first time 02/02/96.

1 AN ACT Relating to motor vehicle dealers; amending RCW 46.70.023,
2 46.70.051, 46.70.101. 46.70.120, 46.70.130, and 46.70.180; creating a
3 new section; and prescribing penalties.

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

5 **Sec. 1.** RCW 46.70.023 and 1995 c 7 s 1 are each amended to read as
6 follows:

7 (1) An "established place of business" requires a permanent,
8 enclosed commercial building located within the state of Washington
9 easily accessible at all reasonable times. (~~An established place of
10 business shall have an improved display area of not less than three
11 thousand square feet in or immediately adjoining the building, or a
12 display area large enough to display six or more vehicles of the type
13 the dealer is licensed to sell, whichever area is larger.~~) The
14 business of a vehicle dealer(~~, including the display of vehicles,
15 may~~) must be lawfully carried on at an established place of business
16 in accordance with the terms of all applicable building code, zoning,
17 and other land-use regulatory ordinances. A vehicle dealer may display
18 a vehicle for sale only at its established place of business, licensed
19 subagency, or temporary subagency site. The dealer shall keep the

1 building open to the public so that (~~they~~) the public may contact the
2 vehicle dealer or the dealer's salespersons at all reasonable times.
3 The books, records, and files necessary to conduct the business shall
4 be kept and maintained at that place. The established place of
5 business shall display an exterior sign with the business name and
6 nature of the business, such as auto sales, permanently affixed to the
7 land or building, with letters clearly visible to the major avenue of
8 traffic. (~~In no event may~~) A room or rooms in a hotel, rooming
9 house, or apartment house building or part of a single or multiple-unit
10 dwelling house may not be considered an "established place of business"
11 unless the ground floor of such a dwelling is devoted principally to
12 and occupied for commercial purposes and the dealer offices are located
13 on the ground floor. A mobile office or mobile home may be used as an
14 office if it is connected to utilities and is set up in accordance with
15 state law. A state-wide trade association representing manufactured
16 housing dealers shall be permitted to use a manufactured home as an
17 office if the office complies with all other applicable building code,
18 zoning, and other land-use regulatory ordinances. This subsection does
19 not apply to auction companies that do not own vehicle inventory or
20 sell vehicles from an auction yard.

21 (2) An auction company shall have office facilities within the
22 state. The books, records, and files necessary to conduct the business
23 shall be maintained at the office facilities. All storage facilities
24 for inventory shall be listed with the department, and shall meet local
25 zoning and land use ordinances. An auction company shall maintain a
26 telecommunications system.

27 (3) Auction companies shall post their vehicle dealer license at
28 each auction where vehicles are offered, and shall provide the
29 department with the address of the auction at least three days before
30 the auction.

31 (4) If a dealer maintains a place of business at more than one
32 location or under more than one name in this state, he or she shall
33 designate one location as the principal place of business of the firm,
34 one name as the principal name of the firm, and all other locations or
35 names as subagencies. A subagency license is required for each and
36 every subagency: PROVIDED, That the department may grant an exception
37 to the subagency requirement in the specific instance where a licensed
38 dealer is unable to locate their used vehicle sales facilities adjacent
39 to or at the established place of business. This exception shall be

1 granted and defined under the promulgation of rules consistent with the
2 Administrative Procedure Act.

3 (5) All vehicle dealers shall maintain ownership or leasehold
4 throughout the license year of the real property from which they do
5 business. The dealer shall provide the department with evidence of
6 ownership or leasehold whenever the ownership changes or the lease is
7 terminated.

8 (6) A subagency shall comply with all requirements of an
9 established place of business, except that subagency records may be
10 kept at the principal place of business designated by the dealer.
11 Auction companies shall comply with the requirements in subsection (2)
12 of this section.

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

19 (8) A wholesale vehicle dealer shall have office facilities in a
20 commercial building within this state, and all storage facilities for
21 inventory shall be listed with the department, and shall meet local
22 zoning and land use ordinances. A wholesale vehicle dealer shall
23 maintain a telecommunications system. An exterior sign visible from
24 the nearest street shall identify the business name and the nature of
25 business. A wholesale dealer need not maintain a display area as
26 required in this section. When two or more vehicle dealer businesses
27 share a location, all records, office facilities, and inventory, if
28 any, must be physically segregated and clearly identified.

29 (9) A retail vehicle dealer shall be open during normal business
30 hours, maintain office and display facilities in a commercially zoned
31 location or in a location complying with all applicable building and
32 land use ordinances, and maintain a business telephone listing in the
33 local directory. When two or more vehicle dealer businesses share a
34 location, all records, office facilities, and inventory shall be
35 physically segregated and clearly identified.

36 (10) A listing dealer need not have a display area if the dealer
37 does not physically maintain any vehicles for display.

38 (11) A subagency license is not required for a mobile home dealer
39 to display an on-site display model, a consigned mobile home not

1 relocated from its site, or a repossessed mobile home if sales are
2 handled from a principal place of business or subagency. A mobile home
3 dealer shall identify on-site display models, repossessed mobile homes,
4 and those consigned at their sites with a sign that includes the
5 dealer's name and telephone number.

6 (12) Every vehicle dealer shall advise the department of the
7 location of each and every place of business of the firm and the name
8 or names under which the firm is doing business at such location or
9 locations. If any name or location is changed, the dealer shall notify
10 the department of such change within ten days. The license issued by
11 the department shall reflect the name and location of the firm and
12 shall be posted in a conspicuous place at that location by the dealer.

13 (13) A vehicle dealer's license shall upon the death or incapacity
14 of an individual vehicle dealer authorize the personal representative
15 of such dealer, subject to payment of license fees, to continue the
16 business for a period of six months from the date of the death or
17 incapacity.

18 **Sec. 2.** RCW 46.70.051 and 1993 c 307 s 7 are each amended to read
19 as follows:

20 (1) After the application has been filed, the fee paid, and bond
21 posted, if required the department shall, if no denial order is in
22 effect and no proceeding is pending under RCW 46.70.101, issue the
23 appropriate license, which license, in the case of a vehicle dealer,
24 shall designate the classification of the dealer. Nothing prohibits a
25 vehicle dealer from obtaining licenses for more than one
26 classification, and nothing prevents any vehicle dealer from dealing in
27 other classes of vehicles on an isolated basis.

28 (2) An auction company licensed under chapter 18.11 RCW may sell at
29 auction all classifications of vehicles under a motor vehicle dealer's
30 license issued under this chapter including motor vehicles,
31 miscellaneous type vehicles, and mobile homes and travel trailers.

32 (3) At the time the department issues a vehicle dealer license, the
33 department shall provide to the dealer a current, up-to-date vehicle
34 dealer manual setting forth the various statutes and rules applicable
35 to vehicle dealers. In addition, at the time any such license is
36 renewed under RCW 46.70.083, the department shall provide the dealer
37 with any updates or current revisions to the vehicle dealer manual.

1 **Sec. 3.** RCW 46.70.101 and 1991 c 140 s 3 are each amended to read
2 as follows:

3 The director may by order deny, suspend, or revoke the license of
4 any vehicle dealer or vehicle manufacturer or, in lieu thereof or in
5 addition thereto, may by order assess monetary penalties of a civil
6 nature not to exceed one thousand dollars per violation, if the
7 director finds that the order is in the public interest and that the
8 applicant or licensee:

9 (1) In the case of a vehicle dealer:

10 (a) The applicant or licensee, or any partner, officer, director,
11 owner of ten percent or more of the assets of the firm, or managing
12 employee:

13 (i) Was the holder of a license issued pursuant to this chapter,
14 which was revoked for cause and never reissued by the department, or
15 which license was suspended for cause and the terms of the suspension
16 have not been fulfilled or which license was assessed a civil penalty
17 and the assessed amount has not been paid;

18 (ii) Has been adjudged guilty of a crime which directly relates to
19 the business of a vehicle dealer and the time elapsed since the
20 adjudication is less than ten years, or suffering any judgment within
21 the preceding five years in any civil action involving fraud,
22 misrepresentation, or conversion. For the purposes of this section,
23 adjudged guilty shall mean in addition to a final conviction in either
24 a state or municipal court, an unvacated forfeiture of bail or
25 collateral deposited to secure a defendant's appearance in court, the
26 payment of a fine, a plea of guilty, or a finding of guilt regardless
27 of whether the sentence is deferred or the penalty is suspended;

28 (iii) Has knowingly or with reason to know made a false statement
29 of a material fact in his application for license or any data attached
30 thereto, or in any matter under investigation by the department;

31 (iv) Has knowingly, or with reason to know, provided the department
32 with false information relating to the number of vehicle sales
33 transacted during the past one year in order to obtain a vehicle dealer
34 license plate;

35 (v) Does not have an established place of business as required in
36 this chapter;

37 (vi) Refuses to allow representatives or agents of the department
38 to inspect during normal business hours all books, records, and files
39 maintained within this state;

1 (vii) Sells, exchanges, offers, brokers, auctions, solicits, or
2 advertises a new or current model vehicle to which a factory new
3 vehicle warranty attaches and fails to have a valid, written service
4 agreement as required by this chapter, or having such agreement refuses
5 to honor the terms of such agreement within a reasonable time or
6 repudiates the same;

7 (viii) Is insolvent, either in the sense that their liabilities
8 exceed their assets, or in the sense that they cannot meet their
9 obligations as they mature;

10 (ix) Fails to pay any civil monetary penalty assessed by the
11 director pursuant to this section within ten days after such assessment
12 becomes final;

13 (x) Fails to notify the department of bankruptcy proceedings in the
14 manner required by RCW 46.70.183;

15 (xi) Knowingly, or with reason to know, allows a salesperson
16 employed by the dealer, or acting as their agent, to commit any of the
17 prohibited practices set forth in subsection (1)(a) of this section and
18 RCW 46.70.180.

19 (b) The applicant or licensee, or any partner, officer, director,
20 owner of ten percent of the assets of the firm, or any employee or
21 agent:

22 (i) Has failed to comply with the applicable provisions of chapter
23 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted
24 thereunder;

25 (ii) Has defrauded or attempted to defraud the state, or a
26 political subdivision thereof of any taxes or fees in connection with
27 the sale or transfer of a vehicle;

28 (iii) Has forged the signature of the registered or legal owner on
29 a certificate of title;

30 (iv) Has purchased, sold, disposed of, or has in his or her
31 possession any vehicle which he or she knows or has reason to know has
32 been stolen or appropriated without the consent of the owner;

33 (v) Has willfully failed to deliver to a purchaser a certificate of
34 ownership to a vehicle which he has sold;

35 (vi) Has committed any act in violation of RCW 46.70.090 relating
36 to vehicle dealer license plates or manufacturer license plates;

37 (vii) Has committed any act in violation of RCW 46.70.180 relating
38 to unlawful acts and practices;

1 (viii) Has engaged in practices inimical to the health or safety of
2 the citizens of the state of Washington including but not limited to
3 failure to comply with standards set by the state of Washington or the
4 federal government pertaining to the construction or safety of
5 vehicles;

6 (ix) Has aided or assisted an unlicensed dealer or salesperson in
7 unlawful activity through active or passive participation in sales,
8 allowing use of facilities, dealer license number, or by any other
9 means;

10 (x) Converts or appropriates, whether temporarily or permanently,
11 property or funds belonging to a customer, dealer, or manufacturer,
12 without the consent of the owner of the property or funds; or

13 (xi) Has sold any vehicle with knowledge that it has "REBUILT" or
14 any other brand on the title or has been declared totaled out by an
15 insurance carrier and then rebuilt without clearly disclosing that fact
16 in writing.

17 (c) The licensee or any partner, officer, director, or owner of ten
18 percent or more of the assets of the firm holds or has held any such
19 position in any other vehicle dealership licensed pursuant to this
20 chapter which is subject to final proceedings under this section.

21 (2) In the case of a manufacturer, or any partner, officer,
22 director, or majority shareholder:

23 (a) Was or is the holder of a license issued pursuant to this
24 chapter which was revoked for cause and never reissued by the
25 department, or which license was suspended for cause and the terms of
26 the suspension have not been fulfilled, or which license was assessed
27 a civil penalty and the assessed amount has not been paid;

28 (b) Has knowingly or with reason to know, made a false statement of
29 a material fact in his application for license, or any data attached
30 thereto, or in any matter under investigation by the department;

31 (c) Has failed to comply with the applicable provisions of chapter
32 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted
33 thereunder;

34 (d) Has defrauded or attempted to defraud the state or a political
35 subdivision thereof, of any taxes or fees in connection with the sale
36 or transfer of a vehicle;

37 (e) Has purchased, sold, disposed of, or has in his possession, any
38 vehicle which he knows or has reason to know has been stolen or
39 appropriated without the consent of the owner;

1 (f) Has committed any act in violation of RCW 46.70.090 relating to
2 vehicle dealer license plates and manufacturer license plates;

3 (g) Has committed any act in violation of RCW 46.70.180 relating to
4 unlawful acts and practices;

5 (h) Sells or distributes in this state or transfers into this state
6 for resale, any new or unused vehicle to which a warranty attaches or
7 has attached and refuses to honor the terms of such warranty within a
8 reasonable time or repudiates the same;

9 (i) Fails to maintain one or more resident employees or agents to
10 provide service or repairs to vehicles located within the state of
11 Washington only under the terms of any warranty attached to new or
12 unused vehicles manufactured and which are or have been sold or
13 distributed in this state or transferred into this state for resale
14 unless such manufacturer requires warranty service to be performed by
15 all of its dealers pursuant to a current service agreement on file with
16 the department;

17 (j) Fails to reimburse within a reasonable time any vehicle dealer
18 within the state of Washington who in good faith incurs reasonable
19 obligations in giving effect to warranties that attach or have attached
20 to any new or unused vehicle sold or distributed in this state or
21 transferred into this state for resale by any such manufacturer;

22 (k) Engaged in practices inimical to the health and safety of the
23 citizens of the state of Washington including but not limited to
24 failure to comply with standards set by the state of Washington or the
25 federal government pertaining to the construction and safety of
26 vehicles;

27 (l) Is insolvent either in the sense that his or her liabilities
28 exceed his or her assets or in the sense that he or she cannot meet his
29 or her obligations as they mature;

30 (m) Fails to notify the department of bankruptcy proceedings in the
31 manner required by RCW 46.70.183.

32 **Sec. 4.** RCW 46.70.120 and 1990 c 238 s 7 are each amended to read
33 as follows:

34 A dealer shall complete and maintain for a period of at least five
35 years a record of the purchase and sale of all vehicles purchased or
36 sold by him. The records shall consist of:

37 (1) The license and title numbers of the state in which the last
38 license was issued;

- 1 (2) A description of the vehicle;
- 2 (3) The name and address of the person from whom purchased;
- 3 (4) The name of the legal owner, if any;
- 4 (5) The name and address of the purchaser;
- 5 (6) If purchased from a dealer, the name, business address, dealer
6 license number, and resale tax number of the dealer;
- 7 (7) The price paid for the vehicle and the method of payment;
- 8 (8) The vehicle odometer disclosure statement given by the seller
9 to the dealer, and the vehicle odometer disclosure statement given by
10 the dealer to the purchaser;
- 11 (9) The written agreement to allow a dealer to sell between the
12 dealer and the consignor, or the listing dealer and the seller;
- 13 (10) Trust account records of receipts, deposits, and withdrawals;
- 14 (11) All sale documents, which shall show the full name of dealer
15 employees involved in the sale; and
- 16 (12) Any additional information the department may require.
17 However, the department may not require a dealer to collect or retain
18 the hardback copy of a temporary license permit after the permanent
19 license plates for a vehicle have been provided to the purchaser, if
20 the dealer maintains some other copy of the temporary license permit
21 together with a log of the permits issued.

22 Such records shall be maintained separate (~~and apart~~) from all
23 other business records of the dealer (~~and shall at all times~~).
24 Records older than two years may be kept at a location other than the
25 dealer's place of business if those records are made available in hard
26 copy for inspection within three calendar days, exclusive of Saturday,
27 Sunday, or a legal holiday, after a request by the director or the
28 director's authorized agent. Records kept at the vehicle dealer's
29 place of business must be available for inspection by the director or
30 (~~his duly~~) the director's authorized agent during normal business
31 hours.

32 Dealers may maintain their recordkeeping and filing systems in
33 accordance with their own particular business needs and practices.
34 Nothing in this chapter requires dealers to maintain their records in
35 any particular order or manner, as long as the records identified in
36 this section are maintained in the dealership's recordkeeping system.

37 **Sec. 5.** RCW 46.70.130 and 1973 1st ex.s. c 132 s 16 are each
38 amended to read as follows:

1 (1) Before the execution of a contract or chattel mortgage or the
2 consummation of the sale of any vehicle, the seller must furnish the
3 buyer an itemization in writing signed by the seller separately
4 disclosing to the buyer the finance charge, insurance costs, taxes, and
5 other charges which are paid or to be paid by the buyer.

6 (2) Notwithstanding subsection (1) of this section, an itemization
7 of the various license and title fees paid or to be paid by the buyer,
8 which itemization must be the same as that disclosed on the
9 registration/application for title document issued by the department,
10 may be required only on the title application at the time the
11 application is submitted for title transfer. A vehicle dealer may not
12 be required to separately or individually itemize the license and title
13 fees on any other document, including but not limited to the purchase
14 order and lease agreement. No fee itemization may be required on the
15 temporary permit.

16 **Sec. 6.** RCW 46.70.180 and 1995 c 256 s 26 are each amended to read
17 as follows:

18 Each of the following acts or practices is unlawful:

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

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

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

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

33 (d) That a new vehicle will be sold for a certain amount above or
34 below cost without computing cost as the exact amount of the factory
35 invoice on the specific vehicle to be sold;

36 (e) That a vehicle will be sold upon a monthly payment of a certain
37 amount, without including in the statement the number of payments of

1 that same amount which are required to liquidate the unpaid purchase
2 price.

3 (2) To incorporate within the terms of any purchase and sale
4 agreement any statement or representation with regard to the sale or
5 financing of a vehicle which is false, deceptive, or misleading,
6 including but not limited to terms that include as an added cost to the
7 selling price of a vehicle an amount for licensing or transfer of title
8 of that vehicle which is not actually due to the state, unless such
9 amount has in fact been paid by the dealer prior to such sale.
10 However, expenses or fees charged by a dealer that are necessary or
11 required to be paid by a dealer to a third party in order to obtain a
12 lien release or a vehicle identification number inspection or
13 verification, or to otherwise clear title to the vehicle, or in order
14 to license or transfer title to a vehicle, do not violate this section
15 if such expenses or fees are disclosed or itemized on the purchase
16 order.

17 (3) To set up, promote, or aid in the promotion of a plan by which
18 vehicles are to be sold to a person for a consideration and upon
19 further consideration that the purchaser agrees to secure one or more
20 persons to participate in the plan by respectively making a similar
21 purchase and in turn agreeing to secure one or more persons likewise to
22 join in said plan, each purchaser being given the right to secure
23 money, credits, goods, or something of value, depending upon the number
24 of persons joining the plan.

25 (4) To commit, allow, or ratify any act of "bushing" which is
26 defined as follows: Taking from a prospective buyer of a vehicle a
27 written order or offer to purchase, or a contract document signed by
28 the buyer, which:

29 (a) Is subject to the dealer's, or his or her authorized
30 representative's future acceptance, and the dealer fails or refuses
31 within ~~((forty-eight hours))~~ three calendar days, exclusive of
32 Saturday, Sunday, or a legal holiday, and prior to any further
33 negotiations with said buyer, either: (i) To deliver to the buyer
34 ((either)) the dealer's signed acceptance, or ((all copies of)) (ii) to
35 void the order, offer, or contract document ((together with)) and
36 tender the return of any initial payment or security made or given by
37 the buyer, including but not limited to money, check, promissory note,
38 vehicle keys, a trade-in, or certificate of title to a trade-in; or

1 (b) Permits the dealer to renegotiate a dollar amount specified as
2 trade-in allowance on a vehicle delivered or to be delivered by the
3 buyer as part of the purchase price, for any reason except:

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

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

12 (iii) Excessive additional miles or a discrepancy in the mileage.
13 "Excessive additional miles" means the addition of five hundred miles
14 or more, as reflected on the vehicle's odometer, between the time the
15 vehicle was first valued by the dealer for purposes of determining its
16 trade-in value and the time of actual delivery of the vehicle to the
17 dealer. "A discrepancy in the mileage" means: (A) A discrepancy
18 between the mileage reflected on the vehicle's odometer and the stated
19 mileage on the signed odometer statement; or (B) a discrepancy between
20 the mileage stated on the signed odometer statement and the actual
21 mileage on the vehicle; or

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

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

29 (6) For any vehicle dealer or vehicle (~~salesman~~) salesperson to
30 refuse to furnish, upon request of a prospective purchaser, (~~the name~~
31 ~~and address of the previous registered owner of any used vehicle~~
32 ~~offered for sale~~) for vehicles previously registered to a business or
33 governmental entity, the name and address of such business or
34 governmental entity.

35 (7) To commit any other offense under RCW 46.37.423, 46.37.424, or
36 46.37.425.

37 (8) To commit any offense relating to a dealer's temporary license
38 permit, including but not limited to failure to properly complete each
39 such permit, or the issuance of more than one such permit on any one

1 vehicle. However, a dealer shall be entitled to issue a second
2 temporary permit on a vehicle if the following conditions are met:

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

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

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

11 (9) For a dealer, salesman, or mobile home manufacturer, having
12 taken an instrument or cash "on deposit" from a purchaser prior to the
13 delivery of the bargained-for vehicle, to commingle the "on deposit"
14 funds with assets of the dealer, salesman, or mobile home manufacturer
15 instead of holding the "on deposit" funds as trustee in a separate
16 trust account until the purchaser has taken delivery of the bargained-
17 for vehicle. Delivery of a manufactured home shall be deemed to occur
18 in accordance with RCW 46.70.135(5). Failure, immediately upon
19 receipt, to endorse "on deposit" instruments to such a trust account,
20 or to set aside "on deposit" cash for deposit in such trust account,
21 and failure to deposit such instruments or cash in such trust account
22 by the close of banking hours on the day following receipt thereof,
23 shall be evidence of intent to commit this unlawful practice:
24 PROVIDED, HOWEVER, That a motor vehicle dealer may keep a separate
25 trust account which equals his or her customary total customer deposits
26 for vehicles for future delivery. For purposes of this section, "on
27 deposit" funds received from a purchaser of a manufactured home means
28 those funds that a seller requires a purchaser to advance before
29 ordering the manufactured home, but does not include any loan proceeds
30 or moneys that might have been paid on an installment contract.

31 (10) For a dealer or manufacturer to fail to comply with the
32 obligations of any written warranty or guarantee given by the dealer or
33 manufacturer requiring the furnishing of goods and services or repairs
34 within a reasonable period of time, or to fail to furnish to a
35 purchaser, all parts which attach to the manufactured unit including
36 but not limited to the undercarriage, and all items specified in the
37 terms of a sales agreement signed by the seller and buyer.

38 (11) For a vehicle dealer to pay to or receive from any person,
39 firm, partnership, association, or corporation acting, either directly

1 or through a subsidiary, as a buyer's agent for consumers, any
2 compensation, fee, gratuity, or reward in connection with the purchase
3 or sale of a new motor vehicle.

4 (12) For a buyer's agent acting directly or through a subsidiary to
5 pay to or to receive from any motor vehicle dealer any compensation,
6 fee, gratuity, or reward in connection with the purchase or sale of a
7 new motor vehicle.

8 (13) For a buyer's agent to arrange for or to negotiate the
9 purchase, or both, of a new motor vehicle through an out-of-state
10 dealer without disclosing in writing to the customer that the new
11 vehicle would not be subject to chapter 19.118 RCW.

12 (14) Being a manufacturer, other than a motorcycle manufacturer
13 governed by chapter 46.94 RCW, to:

14 (a) Coerce or attempt to coerce any vehicle dealer to order or
15 accept delivery of any vehicle or vehicles, parts or accessories, or
16 any other commodities which have not been voluntarily ordered by the
17 vehicle dealer: PROVIDED, That recommendation, endorsement,
18 exposition, persuasion, urging, or argument are not deemed to
19 constitute coercion;

20 (b) Cancel or fail to renew the franchise or selling agreement of
21 any vehicle dealer doing business in this state without fairly
22 compensating the dealer at a fair going business value for his or her
23 capital investment which shall include but not be limited to tools,
24 equipment, and parts inventory possessed by the dealer on the day he or
25 she is notified of such cancellation or termination and which are still
26 within the dealer's possession on the day the cancellation or
27 termination is effective, if: (i) The capital investment has been
28 entered into with reasonable and prudent business judgment for the
29 purpose of fulfilling the franchise; and (ii) the cancellation or
30 nonrenewal was not done in good faith. Good faith is defined as the
31 duty of each party to any franchise to act in a fair and equitable
32 manner towards each other, so as to guarantee one party freedom from
33 coercion, intimidation, or threats of coercion or intimidation from the
34 other party: PROVIDED, That recommendation, endorsement, exposition,
35 persuasion, urging, or argument are not deemed to constitute a lack of
36 good faith.

37 (c) Encourage, aid, abet, or teach a vehicle dealer to sell
38 vehicles through any false, deceptive, or misleading sales or financing

1 practices including but not limited to those practices declared
2 unlawful in this section;

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

6 (e) Refuse to deliver any vehicle publicly advertised for immediate
7 delivery to any duly licensed vehicle dealer having a franchise or
8 contractual agreement for the retail sale of new and unused vehicles
9 sold or distributed by such manufacturer within sixty days after such
10 dealer's order has been received in writing unless caused by inability
11 to deliver because of shortage or curtailment of material, labor,
12 transportation, or utility services, or by any labor or production
13 difficulty, or by any cause beyond the reasonable control of the
14 manufacturer;

15 (f) To provide under the terms of any warranty that a purchaser of
16 any new or unused vehicle that has been sold, distributed for sale, or
17 transferred into this state for resale by the vehicle manufacturer may
18 only make any warranty claim on any item included as an integral part
19 of the vehicle against the manufacturer of that item.

20 Nothing in this section may be construed to impair the obligations
21 of a contract or to prevent a manufacturer, distributor,
22 representative, or any other person, whether or not licensed under this
23 chapter, from requiring performance of a written contract entered into
24 with any licensee hereunder, nor does the requirement of such
25 performance constitute a violation of any of the provisions of this
26 section if any such contract or the terms thereof requiring
27 performance, have been freely entered into and executed between the
28 contracting parties. This paragraph and subsection (14)(b) of this
29 section do not apply to new motor vehicle manufacturers governed by
30 chapter 46.96 RCW.

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

33 NEW SECTION. **Sec. 7.** The legislature shall appoint a committee or
34 study group for the purpose of determining whether motor vehicle
35 dealers are being provided with accurate and timely motor vehicle
36 excise tax schedules and information to facilitate the collection of
37 the vehicle excise tax. The committee or study group shall be
38 comprised of representatives from the automotive industry, the

1 department of licensing, and the department of revenue, and shall
2 report its findings to the legislature no later than the 1997
3 legislative session.

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