
ENGROSSED HOUSE BILL 2501

State of Washington

55th Legislature

1998 Regular Session

By Representatives Zellinsky, Robertson, L. Thomas and Carrell

Read first time 01/14/98. Referred to Committee on Transportation Policy & Budget.

1 AN ACT Relating to wholesale motor vehicle auctions; and amending
2 RCW 46.70.011, 46.79.010, 46.80.010, and 46.70.101.

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

4 **Sec. 1.** RCW 46.70.011 and 1996 c 194 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) "Vehicle dealer" means any person, firm, association,
18 corporation, or trust, not excluded by subsection (4) of this section,
19 engaged in the business of buying, selling, listing, exchanging,

1 offering, brokering, leasing with an option to purchase, auctioning,
2 soliciting, or advertising the sale of new or used vehicles, or
3 arranging or offering or attempting to solicit or negotiate on behalf
4 of others, a sale, purchase, or exchange of an interest in new or used
5 motor vehicles, irrespective of whether the motor vehicles are owned by
6 that person. Vehicle dealers shall be classified as follows:

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

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

12 (c) A "miscellaneous vehicle dealer" is a vehicle dealer that deals
13 in motorcycles or vehicles other than motor vehicles or mobile homes
14 and travel trailers or any combination of such vehicles.

15 (4) The term "vehicle dealer" does not include, nor do the
16 licensing requirements of RCW 46.70.021 apply to, the following
17 persons, firms, associations, or corporations:

18 (a) Receivers, trustees, administrators, executors, guardians, or
19 other persons appointed by, or acting under a judgment or order of, any
20 court; or

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

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

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

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

29 (f) A real estate broker licensed under chapter 18.85 RCW, or his
30 authorized representative, who, on behalf of the legal or registered
31 owner of a used mobile home negotiates the purchase, sale, or exchange
32 of the used mobile home in conjunction with the purchase, sale,
33 exchange, rental, or lease of the land upon which the used mobile home
34 is located and the real estate broker is not acting as an agent,
35 subagent, or representative of a vehicle dealer licensed under this
36 chapter; or

37 (g) Owners who are also operators of the special highway
38 construction equipment or of the highway construction equipment for

1 which a vehicle license and display vehicle license number plate is
2 required as defined in RCW 46.16.010; or

3 (h) Any bank, trust company, savings bank, mutual savings bank,
4 savings and loan association, credit union, and any parent, subsidiary,
5 or affiliate thereof, authorized to do business in this state under
6 state or federal law with respect to the sale or other disposition of
7 a motor vehicle owned and used in their business; or with respect to
8 the acquisition and sale or other disposition of a motor vehicle in
9 which the entity has acquired an interest as a lessor, lessee, or
10 secured party.

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

14 (6) "Department" means the department of licensing, which shall
15 administer and enforce the provisions of this chapter.

16 (7) "Director" means the director of licensing.

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

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

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

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

37 (9) "Established place of business" means a location meeting the
38 requirements of RCW 46.70.023(1) at which a vehicle dealer conducts
39 business in this state.

1 (10) "Principal place of business" means that dealer firm's
2 business location in the state, which place the dealer designates as
3 their principal place of business.

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

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

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

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

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

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

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

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

1 (19) "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.

5 (20) "Wholesale motor vehicle auction dealer" is any person or firm
6 offering motor vehicles for sale by competitive bidding at a permanent
7 location and regularly scheduled dates and times. A salvage pool
8 operation is not a wholesale motor vehicle auction dealer. A wholesale
9 motor vehicle auction dealer may:

10 (a) Sell any classification of motor vehicle;

11 (b) Sell only to motor vehicle dealers and vehicle wreckers
12 licensed under Title 46 RCW by the state of Washington or licensed by
13 any other state; or

14 (c) Sell any motor vehicle belonging to the United States
15 government, the state of Washington, and any political subdivision to
16 nonlicensed persons as may be required by the contracting public
17 agency. However, any publicly owned "wrecked vehicle" as defined in
18 RCW 46.80.010 may be sold to motor vehicle dealers and vehicle wreckers
19 licensed under Title 46 RCW by the state of Washington or licensed by
20 any other state.

21 **Sec. 2.** RCW 46.79.010 and 1990 c 250 s 69 are each amended to read
22 as follows:

23 The definitions set forth in this section apply throughout this
24 chapter unless the context indicates otherwise.

25 (1) "Junk vehicle" means a motor vehicle certified under RCW
26 46.55.230 as meeting all the following requirements:

27 (a) Is three years old or older;

28 (b) Is extensively damaged, such damage including but not limited
29 to any of the following: A broken window or windshield or missing
30 wheels, tires, motor, or transmission;

31 (c) Is apparently inoperable;

32 (d) Is without a valid, current registration plate;

33 (e) Has a fair market value equal only to the value of the scrap in
34 it.

35 (2) "Scrap processor" means a licensed establishment that maintains
36 a hydraulic baler and shears, or a shredder for recycling salvage.

37 (3) "Demolish" means to destroy completely by use of a hydraulic
38 baler and shears, or a shredder.

1 (4) "Hulk hauler" means any person who deals in vehicles for the
2 sole purpose of transporting and/or selling them to a licensed
3 (~~motor~~) vehicle wrecker or scrap processor in substantially the same
4 form in which they are obtained. A hulk hauler may not sell second-
5 hand motor vehicle parts to anyone other than a licensed vehicle
6 wrecker or scrap processor, except for those parts specifically
7 enumerated in RCW 46.79.020(2), as now or hereafter amended, which may
8 be sold to a licensed (~~motor~~) vehicle wrecker or disposed of at a
9 public facility for waste disposal.

10 (5) "Director" means the director of licensing.

11 (6) "Major component parts" include engines and short blocks,
12 frames, transmissions or transfer cases, cabs, doors, front or rear
13 differentials, front or rear clips, quarter panels or fenders, bumpers,
14 truck beds or boxes, seats, and hoods.

15 (7) "Wholesale motor vehicle auction dealer" is any person or firm
16 offering motor vehicles for sale by competitive bidding at a permanent
17 location and regularly scheduled dates and times. A salvage pool
18 operation is not a wholesale motor vehicle auction dealer. A wholesale
19 motor vehicle auction dealer may:

20 (a) Sell any classification of motor vehicle;

21 (b) Sell only to motor vehicle dealers and vehicle wreckers
22 licensed under Title 46 RCW by the state of Washington or licensed by
23 any other state; or

24 (c) Sell any motor vehicle belonging to the United States
25 government, the state of Washington, and any political subdivision to
26 nonlicensed persons as may be required by the contracting public
27 agency. However, any publicly owned "wrecked vehicle" as defined in
28 RCW 46.80.010 may be sold to motor vehicle dealers and vehicle wreckers
29 licensed under Title 46 RCW by the state of Washington or licensed by
30 any other state.

31 **Sec. 3.** RCW 46.80.010 and 1995 c 256 s 4 are each amended to read
32 as follows:

33 The definitions set forth in this section apply throughout this
34 chapter.

35 (1) "Vehicle wrecker" means every person, firm, partnership,
36 association, or corporation engaged in the business of buying, selling,
37 or dealing in vehicles of a type required to be licensed under the laws
38 of this state, for the purpose of wrecking, dismantling, disassembling,

1 or substantially changing the form of a vehicle, or who buys or sells
2 integral second-hand parts of component material thereof, in whole or
3 in part, or who deals in second-hand vehicle parts.

4 (2) "Established place of business" means a building or enclosure
5 which the vehicle wrecker occupies either continuously or at regular
6 periods and where his books and records are kept and business is
7 transacted and which must conform with zoning regulations.

8 (3) "Major component part" includes at least each of the following
9 vehicle parts: (a) Engines and short blocks; (b) frame; (c)
10 transmission and/or transfer case; (d) cab; (e) door; (f) front or rear
11 differential; (g) front or rear clip; (h) quarter panel; (i) truck bed
12 or box; (j) seat; (k) hood; (l) bumper; (m) fender; and (n) airbag.
13 The director may supplement this list by rule.

14 (4) "Wrecked vehicle" means a vehicle which is disassembled or
15 dismantled or a vehicle which is acquired with the intent to dismantle
16 or disassemble and never again to operate as a vehicle, or a vehicle
17 which has sustained such damage that its cost to repair exceeds the
18 fair market value of a like vehicle which has not sustained such
19 damage, or a damaged vehicle whose salvage value plus cost to repair
20 equals or exceeds its fair market value, if repaired, or a vehicle
21 which has sustained such damage or deterioration that it may not
22 lawfully operate upon the highways of this state for which the salvage
23 value plus cost to repair exceeds its fair market value, if repaired;
24 further, it is presumed that a vehicle is a wreck if it has sustained
25 such damage or deterioration that it may not lawfully operate upon the
26 highways of this state.

27 (5) "Wholesale motor vehicle auction dealer" is any person or firm
28 offering motor vehicles for sale by competitive bidding at a permanent
29 location and regularly scheduled dates and times. A salvage pool
30 operation is not a wholesale motor vehicle auction dealer. A wholesale
31 motor vehicle auction dealer may:

32 (a) Sell any classification of motor vehicle;

33 (b) Sell only to motor vehicle dealers and vehicle wreckers
34 licensed under Title 46 RCW by the state of Washington or licensed by
35 any other state; or

36 (c) Sell any motor vehicle belonging to the United States
37 government, the state of Washington, and any political subdivision to
38 nonlicensed persons as may be required by the contracting public
39 agency. However, any publicly owned "wrecked vehicle" as defined in

1 RCW 46.80.010 may be sold to motor vehicle dealers and vehicle wreckers
2 licensed under Title 46 RCW by the state of Washington or licensed by
3 any other state.

4 **Sec. 4.** RCW 46.70.101 and 1996 c 282 s 3 are each amended to read
5 as follows:

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

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

13 (a) The applicant or licensee, or any partner, officer, director,
14 owner of ten percent or more of the assets of the firm, or managing
15 employee:

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

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

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

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

- 1 (v) Does not have an established place of business as required in
2 this chapter;
- 3 (vi) Refuses to allow representatives or agents of the department
4 to inspect during normal business hours all books, records, and files
5 maintained within this state;
- 6 (vii) Sells, exchanges, offers, brokers, auctions, solicits, or
7 advertises a new or current model vehicle to which a factory new
8 vehicle warranty attaches and fails to have a valid, written service
9 agreement as required by this chapter, or having such agreement refuses
10 to honor the terms of such agreement within a reasonable time or
11 repudiates the same, except for sales by wholesale motor vehicle
12 auction dealers to franchise motor vehicle dealers licensed under Title
13 46 RCW or franchise motor vehicle dealers licensed by any other state;
- 14 (viii) Is insolvent, either in the sense that their liabilities
15 exceed their assets, or in the sense that they cannot meet their
16 obligations as they mature;
- 17 (ix) Fails to pay any civil monetary penalty assessed by the
18 director pursuant to this section within ten days after such assessment
19 becomes final;
- 20 (x) Fails to notify the department of bankruptcy proceedings in the
21 manner required by RCW 46.70.183;
- 22 (xi) Knowingly, or with reason to know, allows a salesperson
23 employed by the dealer, or acting as their agent, to commit any of the
24 prohibited practices set forth in subsection (1)(a) of this section and
25 RCW 46.70.180.
- 26 (b) The applicant or licensee, or any partner, officer, director,
27 owner of ten percent of the assets of the firm, or any employee or
28 agent:
- 29 (i) Has failed to comply with the applicable provisions of chapter
30 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted
31 thereunder;
- 32 (ii) Has defrauded or attempted to defraud the state, or a
33 political subdivision thereof of any taxes or fees in connection with
34 the sale or transfer of a vehicle;
- 35 (iii) Has forged the signature of the registered or legal owner on
36 a certificate of title;
- 37 (iv) Has purchased, sold, disposed of, or has in his or her
38 possession any vehicle which he or she knows or has reason to know has
39 been stolen or appropriated without the consent of the owner;

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

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

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

7 (viii) Has engaged in practices inimical to the health or safety of
8 the citizens of the state of Washington including but not limited to
9 failure to comply with standards set by the state of Washington or the
10 federal government pertaining to the construction or safety of
11 vehicles, except for sales by wholesale motor vehicle auction dealers
12 to motor vehicle dealers and vehicle wreckers licensed under Title 46
13 RCW or motor vehicle dealers licensed by any other state;

14 (ix) Has aided or assisted an unlicensed dealer or salesperson in
15 unlawful activity through active or passive participation in sales,
16 allowing use of facilities, dealer license number, or by any other
17 means;

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

21 (xi) Has sold any vehicle with actual knowledge that:

22 (A) It has any of the following brands on the title:
23 "SALVAGE/REBUILT," "JUNK," or "DESTROYED"; or

24 (B) It has been declared totaled out by an insurance carrier and
25 then rebuilt; or

26 (C) The vehicle title contains the specific comment that the
27 vehicle is "rebuilt";
28 without clearly disclosing that brand or comment in writing.

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

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

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

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

4 (c) Has failed to comply with the applicable provisions of chapter
5 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted
6 thereunder;

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

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

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

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

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

21 (i) Fails to maintain one or more resident employees or agents to
22 provide service or repairs to vehicles located within the state of
23 Washington only under the terms of any warranty attached to new or
24 unused vehicles manufactured and which are or have been sold or
25 distributed in this state or transferred into this state for resale
26 unless such manufacturer requires warranty service to be performed by
27 all of its dealers pursuant to a current service agreement on file with
28 the department;

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

34 (k) Engaged in practices inimical to the health and safety of the
35 citizens of the state of Washington including but not limited to
36 failure to comply with standards set by the state of Washington or the
37 federal government pertaining to the construction and safety of
38 vehicles;

1 (1) Is insolvent either in the sense that his or her liabilities
2 exceed his or her assets or in the sense that he or she cannot meet his
3 or her obligations as they mature;

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

--- END ---