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**SUBSTITUTE HOUSE BILL 2576**

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**State of Washington**

**55th Legislature**

**1998 Regular Session**

**By** House Representative Commerce & Labor (originally sponsored by Representatives Honeyford, Hatfield, Mulliken, Grant, Conway, O'Brien, Bush, Boldt, Mielke, Delvin, Backlund, Ogden and Koster)

Read first time 01/28/98. Referred to Committee on .

1 AN ACT Relating to manufactured or mobile homes; and amending RCW  
2 46.70.011, 18.85.010, and 18.85.330.

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  
25 ~~((he))~~ that person is the registered or legal owner, or both, thereof;  
26 or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (17) "Auction company" means a sole proprietorship, partnership,  
34 corporation, or other legal or commercial entity licensed under chapter  
35 18.11 RCW that only sells or offers to sell vehicles at auction or only  
36 arranges or sponsors auctions.

37 (18) "Buyer's agent" means any person, firm, partnership,  
38 association, limited liability company, limited liability partnership,  
39 or corporation retained or employed by a consumer to arrange for or to

1 negotiate, or both, the purchase of a new motor vehicle on behalf of  
2 the consumer, and who is paid a fee or receives other compensation from  
3 the consumer for its services.

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

8 **Sec. 2.** RCW 18.85.010 and 1997 c 322 s 1 are each amended to read  
9 as follows:

10 In this chapter words and phrases have the following meanings  
11 unless otherwise apparent from the context:

12 (1) "Real estate broker," or "broker," means a person, while acting  
13 for another for commissions or other compensation or the promise  
14 thereof, or a licensee under this chapter while acting in his or her  
15 own behalf, who:

16 (a) Sells or offers for sale, lists or offers to list, buys or  
17 offers to buy real estate or business opportunities, or any interest  
18 therein, for others;

19 (b) Negotiates or offers to negotiate, either directly or  
20 indirectly, the purchase, sale, exchange, lease, or rental of real  
21 estate or business opportunities, or any interest therein, for others;

22 (c) Negotiates or offers to negotiate, either directly or  
23 indirectly, the purchase, sale, lease, or exchange of a ~~((used))~~  
24 manufactured or mobile home in conjunction with the purchase, sale,  
25 exchange, rental, or lease of the land upon which the ~~((used))~~  
26 manufactured or mobile home is, or will be, located;

27 (d) Advertises or holds himself or herself out to the public by any  
28 oral or printed solicitation or representation that he or she is so  
29 engaged; or

30 (e) Engages, directs, or assists in procuring prospects or in  
31 negotiating or closing any transaction which results or is calculated  
32 to result in any of these acts;

33 (2) "Real estate salesperson" or "salesperson" means any natural  
34 person employed, either directly or indirectly, by a real estate  
35 broker, or any person who represents a real estate broker in the  
36 performance of any of the acts specified in subsection (1) of this  
37 section;

1 (3) An "associate real estate broker" is a person who has qualified  
2 as a "real estate broker" who works with a broker and whose license  
3 states that he or she is associated with a broker;

4 (4) The word "person" as used in this chapter shall be construed to  
5 mean and include a corporation, limited liability company, limited  
6 liability partnership, or partnership, except where otherwise  
7 restricted;

8 (5) "Business opportunity" shall mean and include business,  
9 business opportunity and good will of an existing business or any one  
10 or combination thereof;

11 (6) "Commission" means the real estate commission of the state of  
12 Washington;

13 (7) "Director" means the director of licensing;

14 (8) "Real estate multiple listing association" means any  
15 association of real estate brokers:

16 (a) Whose members circulate listings of the members among  
17 themselves so that the properties described in the listings may be sold  
18 by any member for an agreed portion of the commission to be paid; and

19 (b) Which require in a real estate listing agreement between the  
20 seller and the broker, that the members of the real estate multiple  
21 listing association shall have the same rights as if each had executed  
22 a separate agreement with the seller;

23 (9) "Clock hours of instruction" means actual hours spent in  
24 classroom instruction in any tax supported, public technical college,  
25 community college, or any other institution of higher learning or a  
26 correspondence course from any of the aforementioned institutions  
27 certified by such institution as the equivalent of the required number  
28 of clock hours, and the real estate commission may certify courses of  
29 instruction other than in the aforementioned institutions; and

30 (10) "Incapacitated" means the physical or mental inability to  
31 perform the duties of broker prescribed by this chapter.

32 **Sec. 3.** RCW 18.85.330 and 1997 c 322 s 20 are each amended to read  
33 as follows:

34 (1) Except under subsection (4) of this section, it shall be  
35 unlawful for any licensed broker to pay any part of his or her  
36 commission or other compensation to any person who is not a licensed  
37 real estate broker in any state of the United States or its possessions

1 or any province of the Dominion of Canada or any foreign jurisdiction  
2 with a real estate regulatory program.

3 (2) Except under subsection (4) of this section, it shall be  
4 unlawful for any licensed broker to pay any part of his or her  
5 commission or other compensation to a real estate salesperson not  
6 licensed to do business for such broker.

7 (3) Except under subsection (4) of this section, it shall be  
8 unlawful for any licensed salesperson to pay any part of his or her  
9 commission or other compensation to any person, whether licensed or  
10 not, except through his or her broker.

11 (4) A commission may be shared with a manufactured housing  
12 retailer, licensed under chapter 46.70 RCW, on the sale of personal  
13 property manufactured housing sold in conjunction with the sale or  
14 lease of land.

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