

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 2501

55th Legislature
1998 Regular Session

Passed by the House March 10, 1998
Yeas 98 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate March 6, 1998
Yeas 46 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 2501** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 2501

AS AMENDED BY THE SENATE

Passed Legislature - 1998 Regular Session

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; amending RCW
2 46.70.011, 46.79.010, 46.80.010, and 46.70.101; adding a new section to
3 chapter 46.70 RCW; adding a new section to chapter 46.79 RCW; and
4 adding a new section to chapter 46.80 RCW.

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

6 **Sec. 1.** RCW 46.70.011 and 1996 c 194 s 1 are each amended to read
7 as follows:

8 As used in this chapter:

9 (1) "Vehicle" means and includes every device capable of being
10 moved upon a public highway and in, upon, or by which any persons or
11 property is or may be transported or drawn upon a public highway,
12 excepting devices moved by human or animal power or used exclusively
13 upon stationary rails or tracks.

14 (2) "Motor vehicle" means every vehicle which is self-propelled and
15 every vehicle which is propelled by electric power obtained from
16 overhead trolley wires, but not operated upon rails, and which is
17 required to be registered and titled under Title 46 RCW, Motor
18 Vehicles.

1 (3) "Vehicle dealer" means any person, firm, association,
2 corporation, or trust, not excluded by subsection (4) of this section,
3 engaged in the business of buying, selling, listing, exchanging,
4 offering, brokering, leasing with an option to purchase, auctioning,
5 soliciting, or advertising the sale of new or used vehicles, or
6 arranging or offering or attempting to solicit or negotiate on behalf
7 of others, a sale, purchase, or exchange of an interest in new or used
8 motor vehicles, irrespective of whether the motor vehicles are owned by
9 that person. Vehicle dealers shall be classified as follows:

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

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

15 (c) A "miscellaneous vehicle dealer" is a vehicle dealer that deals
16 in motorcycles or vehicles other than motor vehicles or mobile homes
17 and travel trailers or any combination of such vehicles;

18 (d) "Wholesale motor vehicle auction dealer" is a person or firm
19 offering motor vehicles for sale by competitive bidding at a permanent
20 location and regularly scheduled dates and times. A salvage pool
21 operation is not a wholesale motor vehicle auction dealer.

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

25 (a) Receivers, trustees, administrators, executors, guardians, or
26 other persons appointed by, or acting under a judgment or order of, any
27 court; or

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

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

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

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

36 (f) A real estate broker licensed under chapter 18.85 RCW, or his
37 authorized representative, who, on behalf of the legal or registered
38 owner of a used mobile home negotiates the purchase, sale, or exchange
39 of the used mobile home in conjunction with the purchase, sale,

1 exchange, rental, or lease of the land upon which the used mobile home
2 is located and the real estate broker is not acting as an agent,
3 subagent, or representative of a vehicle dealer licensed under this
4 chapter; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (17) "Auction company" means a sole proprietorship, partnership,
38 corporation, or other legal or commercial entity licensed under chapter

1 18.11 RCW that only sells or offers to sell vehicles at auction or only
2 arranges or sponsors auctions.

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

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

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 46.70 RCW
14 to read as follows:

15 (1) A wholesale motor vehicle auction dealer may:

16 (a) Sell any classification of motor vehicle;

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

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

26 (2) If the wholesale motor vehicle auction dealer knows that a
27 vehicle is a "wrecked vehicle" as defined by RCW 46.80.010, the dealer
28 must disclose this fact on the bill of sale.

29 **Sec. 3.** RCW 46.79.010 and 1990 c 250 s 69 are each amended to read
30 as follows:

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

33 (1) "Junk vehicle" means a motor vehicle certified under RCW
34 46.55.230 as meeting all the following requirements:

35 (a) Is three years old or older;

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

4 (c) Is apparently inoperable;

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

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

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

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

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

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

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

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

30 NEW SECTION. Sec. 4. A new section is added to chapter 46.79 RCW
31 to read as follows:

32 (1) A wholesale motor vehicle auction dealer may:

33 (a) Sell any classification of motor vehicle;

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

37 (c) Sell a motor vehicle belonging to the United States government,
38 the state of Washington, or a political subdivision to nonlicensed

1 persons as may be required by the contracting public agency. However,
2 a publicly owned "wrecked vehicle" as defined in RCW 46.80.010 may be
3 sold to motor vehicle dealers and vehicle wreckers licensed under Title
4 46 RCW by the state of Washington or licensed by any other state.

5 (2) If the wholesale motor vehicle auction dealer knows that a
6 vehicle is a "wrecked vehicle" as defined by RCW 46.80.010, the dealer
7 must disclose this fact on the bill of sale.

8 **Sec. 5.** RCW 46.80.010 and 1995 c 256 s 4 are each amended to read
9 as follows:

10 The definitions set forth in this section apply throughout this
11 chapter.

12 (1) "Vehicle wrecker" means every person, firm, partnership,
13 association, or corporation engaged in the business of buying, selling,
14 or dealing in vehicles of a type required to be licensed under the laws
15 of this state, for the purpose of wrecking, dismantling, disassembling,
16 or substantially changing the form of a vehicle, or who buys or sells
17 integral second-hand parts of component material thereof, in whole or
18 in part, or who deals in second-hand vehicle parts.

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

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

29 (4) "Wrecked vehicle" means a vehicle which is disassembled or
30 dismantled or a vehicle which is acquired with the intent to dismantle
31 or disassemble and never again to operate as a vehicle, or a vehicle
32 which has sustained such damage that its cost to repair exceeds the
33 fair market value of a like vehicle which has not sustained such
34 damage, or a damaged vehicle whose salvage value plus cost to repair
35 equals or exceeds its fair market value, if repaired, or a vehicle
36 which has sustained such damage or deterioration that it may not
37 lawfully operate upon the highways of this state for which the salvage
38 value plus cost to repair exceeds its fair market value, if repaired;

1 further, it is presumed that a vehicle is a wreck if it has sustained
2 such damage or deterioration that it may not lawfully operate upon the
3 highways of this state.

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

8 NEW SECTION. Sec. 6. A new section is added to chapter 46.80 RCW
9 to read as follows:

10 (1) A wholesale motor vehicle auction dealer may:

11 (a) Sell any classification of motor vehicle;

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

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

21 (2) If the wholesale motor vehicle auction dealer knows that a
22 vehicle is a "wrecked vehicle," the dealer must disclose this fact on
23 the bill of sale.

24 **Sec. 7.** RCW 46.70.101 and 1996 c 282 s 3 are each amended to read
25 as follows:

26 The director may by order deny, suspend, or revoke the license of
27 any vehicle dealer or vehicle manufacturer or, in lieu thereof or in
28 addition thereto, may by order assess monetary penalties of a civil
29 nature not to exceed one thousand dollars per violation, if the
30 director finds that the order is in the public interest and that the
31 applicant or licensee:

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

33 (a) The applicant or licensee, or any partner, officer, director,
34 owner of ten percent or more of the assets of the firm, or managing
35 employee:

36 (i) Was the holder of a license issued pursuant to this chapter,
37 which was revoked for cause and never reissued by the department, or

1 which license was suspended for cause and the terms of the suspension
2 have not been fulfilled or which license was assessed a civil penalty
3 and the assessed amount has not been paid;

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

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

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

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

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

26 (vii) Sells, exchanges, offers, brokers, auctions, solicits, or
27 advertises a new or current model vehicle to which a factory new
28 vehicle warranty attaches and fails to have a valid, written service
29 agreement as required by this chapter, or having such agreement refuses
30 to honor the terms of such agreement within a reasonable time or
31 repudiates the same, except for sales by wholesale motor vehicle
32 auction dealers to franchise motor vehicle dealers of the same make
33 licensed under Title 46 RCW or franchise motor vehicle dealers of the
34 same make licensed by any other state;

35 (viii) Is insolvent, either in the sense that their liabilities
36 exceed their assets, or in the sense that they cannot meet their
37 obligations as they mature;

- 1 (ix) Fails to pay any civil monetary penalty assessed by the
2 director pursuant to this section within ten days after such assessment
3 becomes final;
- 4 (x) Fails to notify the department of bankruptcy proceedings in the
5 manner required by RCW 46.70.183;
- 6 (xi) Knowingly, or with reason to know, allows a salesperson
7 employed by the dealer, or acting as their agent, to commit any of the
8 prohibited practices set forth in subsection (1)(a) of this section and
9 RCW 46.70.180.
- 10 (b) The applicant or licensee, or any partner, officer, director,
11 owner of ten percent of the assets of the firm, or any employee or
12 agent:
- 13 (i) Has failed to comply with the applicable provisions of chapter
14 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted
15 thereunder;
- 16 (ii) Has defrauded or attempted to defraud the state, or a
17 political subdivision thereof of any taxes or fees in connection with
18 the sale or transfer of a vehicle;
- 19 (iii) Has forged the signature of the registered or legal owner on
20 a certificate of title;
- 21 (iv) Has purchased, sold, disposed of, or has in his or her
22 possession any vehicle which he or she knows or has reason to know has
23 been stolen or appropriated without the consent of the owner;
- 24 (v) Has willfully failed to deliver to a purchaser a certificate of
25 ownership to a vehicle which he has sold;
- 26 (vi) Has committed any act in violation of RCW 46.70.090 relating
27 to vehicle dealer license plates or manufacturer license plates;
- 28 (vii) Has committed any act in violation of RCW 46.70.180 relating
29 to unlawful acts and practices;
- 30 (viii) Has engaged in practices inimical to the health or safety of
31 the citizens of the state of Washington including but not limited to
32 failure to comply with standards set by the state of Washington or the
33 federal government pertaining to the construction or safety of
34 vehicles, except for sales by wholesale motor vehicle auction dealers
35 to motor vehicle dealers and vehicle wreckers licensed under Title 46
36 RCW or motor vehicle dealers licensed by any other state;
- 37 (ix) Has aided or assisted an unlicensed dealer or salesperson in
38 unlawful activity through active or passive participation in sales,

1 allowing use of facilities, dealer license number, or by any other
2 means;

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

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

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

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

11 (C) The vehicle title contains the specific comment that the
12 vehicle is "rebuilt";
13 without clearly disclosing that brand or comment in writing.

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

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

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

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

28 (c) Has failed to comply with the applicable provisions of chapter
29 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted
30 thereunder;

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

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

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

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

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

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

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

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

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

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

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