

# HOUSE BILL REPORT

## ESSB 5610

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### As Reported By House Committee On:

Transportation

**Title:** An act relating to civil penalties levied by the department of licensing for unlawful sale of used motor vehicles by unlicensed parties.

**Brief Description:** Authorizing the director of the department of licensing to impose a civil penalty for a violation of chapter 46.70 RCW.

**Sponsors:** Senate Committee on Transportation (originally sponsored by Senators Prentice, Finkbeiner, T. Sheldon and Costa).

### Brief History:

#### Committee Activity:

Transportation: 3/29/99, 4/1/99 [DPA].

#### Brief Summary of Engrossed Substitute Bill

(As Amended by House Committee)

- Department of Licensing is authorized to issue a \$1,000 penalty against those buying and selling five or more cars in a year without a valid vehicle dealer's license.
- Selling farm vehicles, if used for farming purposes and sold by a farmer, is not a violation.

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### HOUSE COMMITTEE ON TRANSPORTATION

**Majority Report:** Do pass as amended. Signed by 22 members: Representatives Fisher, Democratic Co-Chair; K. Schmidt, Republican Co-Chair; Cooper, Democratic 1st Vice Chair; Hankins, Republican Vice Chair; Buck; G. Chandler; DeBolt; Haigh; Hatfield; Hurst; Lovick; McDonald; Mitchell; Morris; Murray; Ogden; Pflug; Radcliff; Romero; Schual-Berke; Skinner and Wood.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Ericksen, Republican Vice Chair; Fortunato and Schindler.

**Staff:** Kelly Simpson (786-7305).

**Background:**

Current Washington law requires vehicle dealers selling either new or used vehicles to obtain a dealer's license from the Department of Licensing (DOL). DOL is charged with the duty to regulate those vehicle dealers licensed in the state of Washington. As well, Washington law prohibits vehicle dealers from engaging in unlawful acts and practices, such as false or deceptive advertising, odometer fraud, and failure to comply with applicable warranties.

The director of DOL is authorized to issue a cease and desist order against those persons who have engaged, or are about to engage, in an act or practice violating Washington's vehicle dealer laws. Reasonable notice and an opportunity for a hearing are required.

A person or firm engaged in buying and offering for sale or buying and selling five or more vehicles in a 12-month period without a valid vehicle dealer license is guilty of a gross misdemeanor, subject to a fine of up to \$5,000 per violation and one year in jail. Such conduct is considered a deceptive practice and is a per se violation of the Consumer Protection Act.

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**Summary of Amended Bill:**

The director of DOL is authorized to issue a civil penalty, not to exceed \$1,000 for each violation, against those persons found by the director to be selling five or more vehicles within a year without a valid dealer's license. Reasonable notice and an opportunity for a hearing are required. The sale of farm vehicles or equipment, if used for farming purposes and sold by a farmer, is not a violation under this bill.

**Amended Bill Compared to Engrossed Substitute Bill:** A conflict existed in the bill whereby the civil penalty could potentially become due five days before an aggrieved party could request a hearing. An amendment was added to state that the civil penalty would be due ten days after issuance of a final order.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** This bill is an attempt to enforce Washington's vehicle dealer laws by penalizing those who are selling vehicles unlawfully.

**Testimony Against:** None.

**Testified:** T. K. Bentler, Washington State Independent Auto Dealers Association; and John Zukerman, Washington State Independent Auto Dealers Association.