

SENATE BILL REPORT

ESSB 6220

As Passed Senate, February 14, 2000

Title: An act relating to a prohibition on unfair competition by motor vehicle dealers and manufacturers.

Brief Description: Prohibiting unfair competition by motor vehicle dealers and manufacturers.

Sponsors: Senate Committee on Commerce, Trade, Housing & Financial Institutions (originally sponsored by Senators Prentice, Winsley, Deccio and Rasmussen).

Brief History:

Committee Activity: Commerce, Trade, Housing & Financial Institutions: 1/20/2000, 2/1/2000 [DPS].

Passed Senate, 2/14/2000, 48-0.

SENATE COMMITTEE ON COMMERCE, TRADE, HOUSING & FINANCIAL INSTITUTIONS

Majority Report: That Substitute Senate Bill No. 6220 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Shin, Vice Chair; Benton, Deccio, Gardner, Hale, Heavey, Rasmussen, T. Sheldon and Winsley.

Staff: Elizabeth Mitchell (786-7430)

Background: There are approximately 350 new motor vehicle dealerships in the state of Washington. None of these dealerships are currently owned by manufacturers.

Recently, some motor vehicle manufacturers have indicated an interest in purchasing dealerships. There is concern that dealers who do not agree to sell their dealership to manufacturers may not be treated fairly, and that the increase in manufacturer-owned dealerships may result in decreased consumer choice.

Summary of Bill: A motor vehicle manufacturer, distributor, factory branch, factory representative, or any persons acting on behalf of these entities is prohibited from giving preferential treatment to any **new** motor vehicle dealers. Preferential treatment is defined as: offering to sell vehicles, parts, or accessories at a lower price to one dealer than another; or having a different method or schedule of delivering vehicles, parts or accessories to one dealer than another. Preferential treatment does not include sales incentives, rebates, or fleet discounts.

Manufacturers, distributors, and factory branches or representatives are prohibited from owning, operating, or controlling a **new** motor vehicle dealership with some exceptions. Exceptions include: when the dealership is operated during the transition from one owner to the next or in conjunction with an independent person as part of a dealer development

program; and when a manufacturer does not own more than 45 percent of the total ownership interest in the dealership and meets specified criteria for duration of ownership. The terms "own," "operate," and "control" are specified.

A motor vehicle manufacturer, distributor, factory branch, or factory representative is prohibited from operating a service facility for the repair or maintenance of motor vehicles, with limited exceptions, and these entities are also prohibited from selling or offering to sell a new motor vehicle to a consumer in this state except through a dealer. A new motor vehicle sold and delivered to a consumer in this state is deemed to have been sold in this state for tax and warranty purposes.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Competition with manufacturers would be unfair due to the large amount of information manufacturers would have about dealers. Manufacturer-owned dealerships would have serious consequences in rural districts.

Testimony Against: The price discrimination language in the bill is too broad and would prohibit rebates and fleet discounts. No restrictions should be placed on internet sales.

Testified: PRO: Tom Lane, Jim Boldt, Rod Parr, Tom Sparling, Pam Nelson, Ed Fitzpatrick, Chris Marr, Washington State Auto Dealers Association; Tony Meinhardt, Washington State RV Dealers Association; Mark Webster, IAAW; CON: Mark Logan, Auto Solutions; Gary Garnder, Washington Association of Internet Service Providers; Steve Buckner, Jim McDonald, Alliance of Automobile Manufacturers.

House Amendment(s): A dealer is limited to intervening in a proceeding relating to the specific circumstance of extension of a transitional ownership program. The number of dealerships a manufacturer is allowed to own or operate in conjunction with an independent person in a bona fide business relationship is increased from 2 percent to 4 percent of a manufacturer's total of new motor vehicle dealerships in the state.

Changes are made to the conditions under which a manufacturer may own a dealership trading exclusively in a single line make. Manufacturers are only limited in their ability to operate a service or maintenance facility for services covered under the manufacturer's new car warranty and extended warranty policies. Manufacturers are not prohibited from operating other types of service or maintenance facilities. The use of confidential information is only prohibited when the information is used to unfairly compete with a dealer. Confidential information includes only information obtained from a new motor vehicle dealer. Forecasts, orally disclosed information, and unspecified information which may be deemed confidential are eliminated from the definition of confidential information. A person aggrieved by an alleged violation may petition the Department of Licensing to have the matter handled as an adjudicative proceeding under Chapter 34.05 RCW (administrative hearings) instead of under Chapter 7.04 RCW (arbitration).