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ENGROSSED SUBSTITUTE SENATE BILL 6606

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State of Washington

64th Legislature

2016 Regular Session

By Senate Transportation (originally sponsored by Senator King)

READ FIRST TIME 02/09/16.

1       AN ACT Relating to wholesale vehicle dealers; amending RCW  
2   46.70.023; reenacting and amending RCW 46.70.011; and declaring an  
3   emergency.

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

5       **Sec. 1.** RCW 46.70.011 and 2010 c 161 s 1130 are each reenacted  
6   and amended to read as follows:

7       As used in this chapter:

8       (1) "Auction" means a transaction conducted by means of exchanges  
9   between an auctioneer and the members of the audience, constituting a  
10   series of oral invitations for offers for the purchase of vehicles  
11   made by the auctioneer, offers to purchase by members of the  
12   audience, and the acceptance of the highest or most favorable offer  
13   to purchase.

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

18       (3) "Buyer's agent" means any person, firm, partnership,  
19   association, limited liability company, limited liability  
20   partnership, or corporation retained or employed by a consumer to  
21   arrange for or to negotiate, or both, the purchase or lease of a new

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

3 (4) "Department" means the department of licensing, which shall  
4 administer and enforce the provisions of this chapter.

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

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

9 (7) "Listing dealer" means a used mobile home dealer who makes  
10 contracts with sellers who will compensate the dealer for obtaining a  
11 willing purchaser for the seller's mobile home.

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

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

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

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

32 (9) "Motor vehicle" means every vehicle which is self-propelled  
33 and every vehicle which is propelled by electric power obtained from  
34 overhead trolley wires, but not operated upon rails, and which is  
35 required to be registered and titled under this title.

36 (10) "New motor vehicle" means any motor vehicle that is self-  
37 propelled and is required to be registered and titled under this  
38 title, has not been previously titled to a retail purchaser or  
39 lessee, and is not a "used vehicle" as defined under RCW 46.04.660.

1 (11) "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 (12) "Recreational vehicle" means a travel trailer, motor home,  
5 truck camper, or camping trailer that is primarily designed and used  
6 as temporary living quarters, is either self-propelled or mounted on  
7 or drawn by another vehicle, is transient, is not occupied as a  
8 primary residence, and is not immobilized or permanently affixed to a  
9 mobile home lot.

10 (13) "Retail vehicle dealer" means a vehicle dealer who may buy  
11 and sell at both wholesale and retail.

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

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

26 (16) "Vehicle" means and includes every device capable of being  
27 moved upon a public highway and in, upon, or by which any persons or  
28 property is or may be transported or drawn upon a public highway,  
29 excepting devices moved by human or animal power or used exclusively  
30 upon stationary rails or tracks.

31 (17) "Vehicle dealer" means any person, firm, association,  
32 corporation, or trust, not excluded by subsection (18) of this  
33 section, engaged in the business of buying, selling, listing,  
34 exchanging, offering, brokering, leasing with an option to purchase,  
35 auctioning, soliciting, or advertising the sale of new or used  
36 vehicles, or arranging or offering or attempting to solicit or  
37 negotiate on behalf of others, a sale, purchase, or exchange of an  
38 interest in new or used motor vehicles, irrespective of whether the  
39 motor vehicles are owned by that person. Vehicle dealers shall be  
40 classified as follows:

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

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

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

9 (d) A "recreational vehicle dealer" is a vehicle dealer that  
10 deals in travel trailers, motor homes, truck campers, or camping  
11 trailers that are primarily designed and used as temporary living  
12 quarters, are either self-propelled or mounted on or drawn by another  
13 vehicle, are transient, are not occupied as a primary residence, and  
14 are not immobilized or permanently affixed to a mobile home lot.

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

18 (a) Receivers, trustees, administrators, executors, guardians, or  
19 other persons appointed by, or acting under a judgment or order of,  
20 any 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 that person 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 an  
30 affiliated licensee, who, on behalf of another negotiates the  
31 purchase, sale, lease, or exchange of a manufactured or mobile home  
32 in conjunction with the purchase, sale, exchange, rental, or lease of  
33 the land upon which the manufactured or mobile home is, or will be,  
34 located; or

35 (g) Owners who are also operators of special highway construction  
36 equipment, as defined in RCW 46.04.551, or of the highway  
37 construction equipment for which a vehicle license and display  
38 vehicle license number plate is required; or

39 (h) Any bank, trust company, savings bank, mutual savings bank,  
40 savings and loan association, credit union, and any parent,

1 subsidiary, or affiliate thereof, authorized to do business in this  
2 state under state or federal law with respect to the sale or other  
3 disposition of a motor vehicle owned and used in their business; or  
4 with respect to the acquisition and sale or other disposition of a  
5 motor vehicle in which the entity has acquired an interest as a  
6 lessor, lessee, or secured party; or

7 (i) Any person who is regularly engaged in the business of  
8 acquiring leases or installment contracts by assignment, with respect  
9 to the acquisition and sale or other disposition of a motor vehicle  
10 in which the person has acquired an interest as a result of the  
11 business.

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

15 (20) "Wholesale vehicle dealer" means a vehicle dealer who buys  
16 ~~((and sells other than at retail))~~ vehicles from or sells vehicles to  
17 other Washington licensed vehicle dealers.

18 **Sec. 2.** RCW 46.70.023 and 1997 c 432 s 1 are each amended to  
19 read as follows:

20 (1) An "established place of business" requires a permanent,  
21 enclosed commercial building located within the state of Washington  
22 easily accessible at all reasonable times. The business of a vehicle  
23 dealer must be lawfully carried on at an established place of  
24 business in accordance with the terms of all applicable building  
25 code, zoning, and other land-use regulatory ordinances. A vehicle  
26 dealer may display a vehicle for sale only at its established place  
27 of business, licensed subagency, or temporary subagency site, except  
28 at auction. The dealer shall keep the building open to the public so  
29 that the public may contact the vehicle dealer or the dealer's  
30 salespersons at all reasonable times. The books, records, and files  
31 necessary to conduct the business shall be kept and maintained at  
32 that place. The established place of business shall display an  
33 exterior sign with the business name and nature of the business, such  
34 as auto sales, permanently affixed to the land or building, with  
35 letters clearly visible to the major avenue of traffic. A room or  
36 rooms in a hotel, rooming house, or apartment house building or part  
37 of a single or multiple-unit dwelling house may not be considered an  
38 "established place of business" unless the ground floor of such a  
39 dwelling is devoted principally to and occupied for commercial

1 purposes and the dealer offices are located on the ground floor. A  
2 mobile office or mobile home may be used as an office if it is  
3 connected to utilities and is set up in accordance with state law. A  
4 statewide trade association representing manufactured housing dealers  
5 shall be permitted to use a manufactured home as an office if the  
6 office complies with all other applicable building code, zoning, and  
7 other land-use regulatory ordinances. This subsection does not apply  
8 to auction companies that do not own vehicle inventory or sell  
9 vehicles from an auction yard.

10 (2) An auction company shall have office facilities within the  
11 state. The books, records, and files necessary to conduct the  
12 business shall be maintained at the office facilities. All storage  
13 facilities for inventory shall be listed with the department, and  
14 shall meet local zoning and land use ordinances. An auction company  
15 shall maintain a telecommunications system.

16 (3) Auction companies shall post their vehicle dealer license at  
17 each auction where vehicles are offered, and shall provide the  
18 department with the address of the auction at least three days before  
19 the auction.

20 (4) If a dealer maintains a place of business at more than one  
21 location or under more than one name in this state, he or she shall  
22 designate one location as the principal place of business of the  
23 firm, one name as the principal name of the firm, and all other  
24 locations or names as subagencies. A subagency license is required  
25 for each and every subagency: PROVIDED, That the department may grant  
26 an exception to the subagency requirement in the specific instance  
27 where a licensed dealer is unable to locate their used vehicle sales  
28 facilities adjacent to or at the established place of business. This  
29 exception shall be granted and defined under the promulgation of  
30 rules consistent with the administrative procedure act.

31 (5) All vehicle dealers shall maintain ownership or leasehold  
32 throughout the license year of the real property from which they do  
33 business. The dealer shall provide the department with evidence of  
34 ownership or leasehold whenever the ownership changes or the lease is  
35 terminated.

36 (6) A subagency shall comply with all requirements of an  
37 established place of business, except that subagency records may be  
38 kept at the principal place of business designated by the dealer.  
39 Auction companies shall comply with the requirements in subsection  
40 (2) of this section.

1 (7) A temporary subagency shall meet all local zoning and  
2 building codes for the type of merchandising being conducted. The  
3 dealer license certificate shall be posted at the location. No other  
4 requirements of an established place of business apply to a temporary  
5 subagency. Auction companies are not required to obtain a temporary  
6 subagency license.

7 (8) A wholesale vehicle dealer shall have office facilities in a  
8 commercial building within this state, with no more than two other  
9 wholesale or retail vehicle dealers in the same building, and all  
10 storage facilities for inventory shall be listed with the department,  
11 and shall meet local zoning and land use ordinances. A wholesale  
12 vehicle dealer shall maintain a telecommunications system. An  
13 exterior sign visible from the nearest street shall identify the  
14 business name and the nature of business. When two or more vehicle  
15 dealer businesses share a location, all records, office facilities,  
16 and inventory, if any, must be physically segregated and clearly  
17 identified.

18 (9) A retail vehicle dealer shall be open during normal business  
19 hours, maintain office and display facilities in a commercially zoned  
20 location or in a location complying with all applicable building and  
21 land use ordinances, and maintain a business telephone listing in the  
22 local directory. When two or more vehicle dealer businesses share a  
23 location, all records, office facilities, and inventory shall be  
24 physically segregated and clearly identified.

25 (10) A subagency license is not required for a mobile home dealer  
26 to display an on-site display model, a consigned mobile home not  
27 relocated from its site, or a repossessed mobile home if sales are  
28 handled from a principal place of business or subagency. A mobile  
29 home dealer shall identify on-site display models, repossessed mobile  
30 homes, and those consigned at their sites with a sign that includes  
31 the dealer's name and telephone number.

32 (11) Every vehicle dealer shall advise the department of the  
33 location of each and every place of business of the firm and the name  
34 or names under which the firm is doing business at such location or  
35 locations. If any name or location is changed, the dealer shall  
36 notify the department of such change within ten days. The license  
37 issued by the department shall reflect the name and location of the  
38 firm and shall be posted in a conspicuous place at that location by  
39 the dealer.

1       (12) A vehicle dealer's license shall upon the death or  
2 incapacity of an individual vehicle dealer authorize the personal  
3 representative of such dealer, subject to payment of license fees, to  
4 continue the business for a period of six months from the date of the  
5 death or incapacity.

6       NEW SECTION.   **Sec. 3.** This act is necessary for the immediate  
7 preservation of the public peace, health, or safety, or support of  
8 the state government and its existing public institutions, and takes  
9 effect immediately.

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