

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1722

65th Legislature
2017 Regular Session

Passed by the House March 3, 2017
Yeas 71 Nays 26

Speaker of the House of Representatives

Passed by the Senate March 30, 2017
Yeas 46 Nays 3

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1722** as passed by House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 1722

Passed Legislature - 2017 Regular Session

State of Washington

65th Legislature

2017 Regular Session

By Representatives Kirby and Vick

Read first time 01/27/17. Referred to Committee on Business & Financial Services.

1 AN ACT Relating to wholesale vehicle dealers; amending RCW
2 46.70.005, 46.70.011, 46.70.023, 46.70.027, and 46.70.070; creating a
3 new section; providing effective dates; providing an expiration date;
4 and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** (1) Effective July 1, 2017, the department
7 of licensing may not issue any new wholesale vehicle dealer licenses.

8 (2) Effective July 1, 2018, the department of licensing may not
9 renew any wholesale vehicle dealer licenses.

10 (3) This section expires October 31, 2019.

11 **Sec. 2.** RCW 46.70.005 and 2001 c 272 s 1 are each amended to
12 read as follows:

13 The legislature finds and declares that the distribution, sale,
14 and lease of vehicles in the state of Washington vitally affects the
15 general economy of the state and the public interest and the public
16 welfare, and that in order to promote the public interest and the
17 public welfare, and in the exercise of its police power, it is
18 necessary to regulate and license vehicle manufacturers,
19 distributors, ((or—wholesalers)) and factory or distributor
20 representatives, and to regulate and license dealers of vehicles

1 doing business in Washington, in order to prevent frauds,
2 impositions, and other abuses upon its citizens and to protect and
3 preserve the investments and properties of the citizens of this
4 state.

5 **Sec. 3.** RCW 46.70.011 and 2016 sp.s. c 26 s 1 are each amended
6 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
22 motor vehicle on behalf of the consumer, and who is paid a fee or
23 receives other compensation from the consumer for its services.

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

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

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

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

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

37 (a) "Distributor," which means any person, firm, association,
38 corporation, or trust, resident or nonresident, who in whole or in

1 part offers for sale, sells, or distributes any new and unused
2 vehicle to vehicle dealers or who maintains factory representatives.

3 (b) "Factory branch," which means a branch office maintained by a
4 manufacturer for the purpose of selling or offering for sale,
5 vehicles to a distributor(~~(, wholesaler,)~~) or vehicle dealer, or for
6 directing or supervising in whole or in part factory or distributor
7 representatives, and further includes any sales promotion
8 organization, whether a person, firm, or corporation, which is
9 engaged in promoting the sale of new and unused vehicles in this
10 state of a particular brand or make to vehicle dealers.

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

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

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

23 (11) "Principal place of business" means that dealer firm's
24 business location in the state, which place the dealer designates as
25 their principal place of business.

26 (12) "Recreational vehicle" means a travel trailer, motor home,
27 truck camper, or camping trailer that is primarily designed and used
28 as temporary living quarters, is either self-propelled or mounted on
29 or drawn by another vehicle, is transient, is not occupied as a
30 primary residence, and is not immobilized or permanently affixed to a
31 mobile home lot.

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

34 (14) "Subagency" means any place of business of a vehicle dealer
35 within the state, which place is physically and geographically
36 separated from the principal place of business of the firm or any
37 place of business of a vehicle dealer within the state, at which
38 place the firm does business using a name other than the principal
39 name of the firm, or both.

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

9 (16) "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 (17) "Vehicle dealer" means any person, firm, association,
15 corporation, or trust, not excluded by subsection (18) of this
16 section, engaged in the business of buying, selling, listing,
17 exchanging, offering, brokering, leasing with an option to purchase,
18 auctioning, soliciting, or advertising the sale of new or used
19 vehicles, or arranging or offering or attempting to solicit or
20 negotiate on behalf of others, a sale, purchase, or exchange of an
21 interest in new or used motor vehicles, irrespective of whether the
22 motor vehicles are owned by that person. Vehicle dealers shall be
23 classified as follows:

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

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

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

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

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

1 (a) Receivers, trustees, administrators, executors, guardians, or
2 other persons appointed by, or acting under a judgment or order of,
3 any court; or

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

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

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

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

12 (f) A real estate broker licensed under chapter 18.85 RCW, or an
13 affiliated licensee, who, on behalf of another negotiates the
14 purchase, sale, lease, or exchange of a manufactured or mobile home
15 in conjunction with the purchase, sale, exchange, rental, or lease of
16 the land upon which the manufactured or mobile home is, or will be,
17 located; or

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

22 (h) Any bank, trust company, savings bank, mutual savings bank,
23 savings and loan association, credit union, and any parent,
24 subsidiary, or affiliate thereof, authorized to do business in this
25 state under state or federal law with respect to the sale or other
26 disposition of a motor vehicle owned and used in their business; or
27 with respect to the acquisition and sale or other disposition of a
28 motor vehicle in which the entity has acquired an interest as a
29 lessor, lessee, or secured party; or

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

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

38 ~~((20) "Wholesale vehicle dealer" means a vehicle dealer who buys
39 vehicles from or sells vehicles to other Washington licensed vehicle
40 dealers.))~~

1 **Sec. 4.** RCW 46.70.023 and 2016 sp.s. c 26 s 2 are each amended
2 to read as follows:

3 (1) An "established place of business" requires a permanent,
4 enclosed commercial building located within the state of Washington
5 easily accessible at all reasonable times. The business of a vehicle
6 dealer must be lawfully carried on at an established place of
7 business in accordance with the terms of all applicable building
8 code, zoning, and other land-use regulatory ordinances. A vehicle
9 dealer may display a vehicle for sale only at its established place
10 of business, licensed subagency, or temporary subagency site, except
11 at auction. The dealer shall keep the building open to the public so
12 that the public may contact the vehicle dealer or the dealer's
13 salespersons at all reasonable times. The books, records, and files
14 necessary to conduct the business shall be kept and maintained at
15 that place. The established place of business shall display an
16 exterior sign with the business name and nature of the business, such
17 as auto sales, permanently affixed to the land or building, with
18 letters clearly visible to the major avenue of traffic. A room or
19 rooms in a hotel, rooming house, or apartment house building or part
20 of a single or multiple-unit dwelling house may not be considered an
21 "established place of business" unless the ground floor of such a
22 dwelling is devoted principally to and occupied for commercial
23 purposes and the dealer offices are located on the ground floor. A
24 mobile office or mobile home may be used as an office if it is
25 connected to utilities and is set up in accordance with state law. A
26 statewide trade association representing manufactured housing dealers
27 shall be permitted to use a manufactured home as an office if the
28 office complies with all other applicable building code, zoning, and
29 other land-use regulatory ordinances. This subsection does not apply
30 to auction companies that do not own vehicle inventory or sell
31 vehicles from an auction yard.

32 (2) An auction company shall have office facilities within the
33 state. The books, records, and files necessary to conduct the
34 business shall be maintained at the office facilities. All storage
35 facilities for inventory shall be listed with the department, and
36 shall meet local zoning and land use ordinances. An auction company
37 shall maintain a telecommunications system.

38 (3) Auction companies shall post their vehicle dealer license at
39 each auction where vehicles are offered, and shall provide the

1 department with the address of the auction at least three days before
2 the auction.

3 (4) If a dealer maintains a place of business at more than one
4 location or under more than one name in this state, he or she shall
5 designate one location as the principal place of business of the
6 firm, one name as the principal name of the firm, and all other
7 locations or names as subagencies. A subagency license is required
8 for each and every subagency: PROVIDED, That the department may grant
9 an exception to the subagency requirement in the specific instance
10 where a licensed dealer is unable to locate their used vehicle sales
11 facilities adjacent to or at the established place of business. This
12 exception shall be granted and defined under the promulgation of
13 rules consistent with the administrative procedure act.

14 (5) All vehicle dealers shall maintain ownership or leasehold
15 throughout the license year of the real property from which they do
16 business. The dealer shall provide the department with evidence of
17 ownership or leasehold whenever the ownership changes or the lease is
18 terminated.

19 (6) A subagency shall comply with all requirements of an
20 established place of business, except that subagency records may be
21 kept at the principal place of business designated by the dealer.
22 Auction companies shall comply with the requirements in subsection
23 (2) of this section.

24 (7) A temporary subagency shall meet all local zoning and
25 building codes for the type of merchandising being conducted. The
26 dealer license certificate shall be posted at the location. No other
27 requirements of an established place of business apply to a temporary
28 subagency. Auction companies are not required to obtain a temporary
29 subagency license.

30 ~~(8) ((A wholesale vehicle dealer shall have office facilities in
31 a commercial building within this state, with no more than two other
32 wholesale or retail vehicle dealers in the same building, and all
33 storage facilities for inventory shall be listed with the department,
34 and shall meet local zoning and land use ordinances. A wholesale
35 vehicle dealer shall maintain a telecommunications system. An
36 exterior sign visible from the nearest street shall identify the
37 business name and the nature of business. When two or more vehicle
38 dealer businesses share a location, all records, office facilities,
39 and inventory, if any, must be physically segregated and clearly
40 identified.~~

1 ~~(9))~~) A retail vehicle dealer shall be open during normal
2 business hours, maintain office and display facilities in a
3 commercially zoned location or in a location complying with all
4 applicable building and land use ordinances, and maintain a business
5 telephone listing in the local directory. When two or more vehicle
6 dealer businesses share a location, all records, office facilities,
7 and inventory shall be physically segregated and clearly identified.

8 ~~((10))~~) (9) A subagency license is not required for a mobile
9 home dealer to display an on-site display model, a consigned mobile
10 home not relocated from its site, or a repossessed mobile home if
11 sales are handled from a principal place of business or subagency. A
12 mobile home dealer shall identify on-site display models, repossessed
13 mobile homes, and those consigned at their sites with a sign that
14 includes the dealer's name and telephone number.

15 ~~((11))~~) (10) Every vehicle dealer shall advise the department of
16 the location of each and every place of business of the firm and the
17 name or names under which the firm is doing business at such location
18 or locations. If any name or location is changed, the dealer shall
19 notify the department of such change within ten days. The license
20 issued by the department shall reflect the name and location of the
21 firm and shall be posted in a conspicuous place at that location by
22 the dealer.

23 ~~((12))~~) (11) A vehicle dealer's license shall upon the death or
24 incapacity of an individual vehicle dealer authorize the personal
25 representative of such dealer, subject to payment of license fees, to
26 continue the business for a period of six months from the date of the
27 death or incapacity.

28 **Sec. 5.** RCW 46.70.027 and 2011 c 171 s 90 are each amended to
29 read as follows:

30 A vehicle dealer is accountable for the dealer's employees, sales
31 personnel, and managerial personnel while in the performance of their
32 official duties. Any violations of this chapter or applicable
33 provisions of chapter 46.12 or 46.16A RCW committed by any of these
34 employees subjects the dealer to license penalties prescribed under
35 RCW 46.70.101. ~~((A retail purchaser, consignor who is not a motor
36 vehicle dealer, or a motor vehicle dealer who has purchased from a
37 wholesale dealer, who has suffered a loss or damage by reason of any
38 act by a dealer, salesperson, managerial person, or other employee of
39 a dealership, that constitutes a violation of this chapter or~~

1 ~~applicable provisions of chapter 46.12 or 46.16A RCW may institute an~~
2 ~~action for recovery against the dealer and the surety bond as set~~
3 ~~forth in RCW 46.70.070. However, under this section, motor vehicle~~
4 ~~dealers who have purchased from wholesale dealers may only institute~~
5 ~~actions against wholesale dealers and their surety bonds.)~~)

6 **Sec. 6.** RCW 46.70.070 and 2001 c 272 s 13 are each amended to
7 read as follows:

8 (1) Before issuing a vehicle dealer's license, the department
9 shall require the applicant to file with the department a surety bond
10 in the amount of:

11 (a) Thirty thousand dollars for motor vehicle dealers;

12 (b) Thirty thousand dollars for mobile home, park trailer, and
13 travel trailer dealers;

14 (c) Five thousand dollars for miscellaneous dealers,
15 running to the state, and executed by a surety company authorized to
16 do business in the state. Such bond shall be approved by the attorney
17 general as to form and conditioned that the dealer shall conduct his
18 or her business in conformity with the provisions of this chapter.

19 Any retail purchaser(~~(τ)~~) or consignor who is not a motor vehicle
20 dealer(~~(τ or a motor vehicle dealer who has purchased from, sold to,~~
21 ~~or otherwise transacted business with a wholesale dealer,τ)~~) and who
22 has suffered any loss or damage by reason of any act by a dealer
23 which constitutes a violation of this chapter (~~(shall have the right~~
24 ~~to)~~) may institute an action for recovery against such dealer and the
25 surety upon such bond. (~~(However, under this section, motor vehicle~~
26 ~~dealers who have purchased from, sold to, or otherwise transacted~~
27 ~~business with wholesale dealers may only institute actions against~~
28 ~~wholesale dealers and their surety bonds.)~~) Successive recoveries
29 against said bond shall be permitted, but the aggregate liability of
30 the surety to all persons shall in no event exceed the amount of the
31 bond. Upon exhaustion of the penalty of said bond or cancellation of
32 the bond by the surety the vehicle dealer license shall automatically
33 be deemed canceled.

34 (2) The bond for any vehicle dealer licensed or to be licensed
35 under more than one classification shall be the highest bond required
36 for any such classification.

37 (3) Vehicle dealers shall maintain a bond for each business
38 location in this state and bond coverage for all temporary
39 subagencies.

1 NEW SECTION. **Sec. 7.** Section 1 of this act is necessary for the
2 immediate preservation of the public peace, health, or safety, or
3 support of the state government and its existing public institutions,
4 and takes effect June 30, 2017.

5 NEW SECTION. **Sec. 8.** Sections 2 through 6 of this act take
6 effect July 1, 2019.

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