
HOUSE BILL 1029

State of Washington

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1993 Regular Session

By Representatives H. Myers, Vance and Flemming

Read first time 01/12/93. Referred to Committee on Trade, Economic Development & Housing.

1 AN ACT Relating to consumer remedies for purchasers of manufactured
2 homes; amending RCW 46.70.135 and 46.70.180; and adding new sections to
3 chapter 46.70 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 46.70 RCW
6 to read as follows:

7 (1) In addition to the requirements contained in RCW 46.70.135,
8 each sale of a new manufactured home in this state is made with an
9 implied warranty that the manufactured home conforms in all material
10 aspects to applicable federal and state laws and regulations
11 establishing standards of safety or quality, and with implied
12 warranties of merchantability and fitness for a particular purpose as
13 permanent housing in the climate of the state.

14 (2) The implied warranties contained in this section may not be
15 waived, limited, or modified. Any provision that attempts to waive,
16 limit, or modify the implied warranties contained in this section is
17 void and unenforceable.

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

3 Any dealer, manufacturer, or contractor who installs a manufactured
4 home warrants that the manufactured home is installed in accordance
5 with the state installation code, chapter 296-150B WAC. The warranty
6 contained in this section may not be waived, limited, or modified. Any
7 provision attempting to waive, limit, or modify the warranty contained
8 in this section is void and unenforceable. This section does not apply
9 when the manufactured home is installed by the purchaser of the home.

10 **Sec. 3.** RCW 46.70.135 and 1989 c 343 s 22 are each amended to read
11 as follows:

12 Mobile home manufacturers and mobile home dealers who sell mobile
13 homes to be assembled on site and used as residences in this state
14 shall conform to the following requirements:

15 (1) No new manufactured home may be sold unless the purchaser is
16 provided with a manufacturer's written warranty for construction of the
17 home in compliance with the Magnuson-Moss Warranty Act (88 Stat. 2183;
18 15 U.S.C. Sec. 47 et seq.; 15 U.S.C. Sec. 2301 et seq.).

19 (2) No new manufactured home may be sold unless the purchaser is
20 provided with a dealer's written warranty for all installation services
21 performed by the dealer.

22 (3) The warranties required by subsections (1) and (2) of this
23 section shall be valid for a minimum of one year measured from the date
24 of (~~sale~~) delivery and shall not be invalidated by resale by the
25 original purchaser to a subsequent purchaser or by the certificate of
26 ownership being eliminated or not issued as described in chapter 65.20
27 RCW. Copies of the warranties shall be given to the purchaser upon
28 signing a purchase agreement and shall include an explanation of
29 remedies available to the purchaser under state and federal law for
30 breach of warranty, the name and address of the federal department of
31 housing and urban development and the state departments of licensing
32 and labor and industries, and a brief description of the duties of
33 these agencies concerning mobile homes.

34 (4) Warranty service shall be completed within forty-five days
35 after the owner gives written notice of the defect unless there is a
36 bona fide dispute between the parties. Warranty service for a defect
37 affecting health or safety shall be completed within seventy-two hours
38 of receipt of written notice. Warranty service shall be performed on

1 site and a written work order describing labor performed and parts used
2 shall be completed and signed by the service agent and the owner. If
3 the owner's signature cannot be obtained, the reasons shall be
4 described on the work order. Work orders shall be retained by the
5 dealer or manufacturer for a period of three years.

6 (5) Before delivery of possession of the home to the purchaser, an
7 inspection shall be performed by the dealer or his or her agent and by
8 the purchaser or his or her agent which shall include a test of all
9 systems of the home to insure proper operation. At the time of the
10 inspection, the purchaser shall be given copies of all documents
11 required by state or federal agencies to be supplied by the
12 manufacturer with the home which have not previously been provided as
13 required under subsection (3) of this section, and the dealer shall
14 complete any required purchaser information card and forward the card
15 to the manufacturer. A purchaser is deemed to have taken delivery of
16 the home when the inspection and systems test of the home have been
17 completed subsequent to the installation of the manufactured home.

18 (6) Manufacturer and dealer advertising which states the dimensions
19 of a home shall not include the length of the draw bar assembly in a
20 listed dimension, and shall state the square footage of the actual
21 floor area.

22 **Sec. 4.** RCW 46.70.180 and 1990 c 44 s 14 are each amended to read
23 as follows:

24 Each of the following acts or practices is unlawful:

25 (1) To cause or permit to be advertised, printed, displayed,
26 published, distributed, broadcasted, televised, or disseminated in any
27 manner whatsoever, any statement or representation with regard to the
28 sale or financing of a vehicle which is false, deceptive, or
29 misleading, including but not limited to the following:

30 (a) That no down payment is required in connection with the sale of
31 a vehicle when a down payment is in fact required, or that a vehicle
32 may be purchased for a smaller down payment than is actually required;

33 (b) That a certain percentage of the sale price of a vehicle may
34 be financed when such financing is not offered in a single document
35 evidencing the entire security transaction;

36 (c) That a certain percentage is the amount of the service charge
37 to be charged for financing, without stating whether this percentage
38 charge is a monthly amount or an amount to be charged per year;

1 (d) That a new vehicle will be sold for a certain amount above or
2 below cost without computing cost as the exact amount of the factory
3 invoice on the specific vehicle to be sold;

4 (e) That a vehicle will be sold upon a monthly payment of a certain
5 amount, without including in the statement the number of payments of
6 that same amount which are required to liquidate the unpaid purchase
7 price.

8 (2) To incorporate within the terms of any purchase and sale
9 agreement any statement or representation with regard to the sale or
10 financing of a vehicle which is false, deceptive, or misleading,
11 including but not limited to terms that include as an added cost to the
12 selling price of a vehicle an amount for licensing or transfer of title
13 of that vehicle which is not actually due to the state, unless such
14 amount has in fact been paid by the dealer prior to such sale.

15 (3) To set up, promote, or aid in the promotion of a plan by which
16 vehicles are to be sold to a person for a consideration and upon
17 further consideration that the purchaser agrees to secure one or more
18 persons to participate in the plan by respectively making a similar
19 purchase and in turn agreeing to secure one or more persons likewise to
20 join in said plan, each purchaser being given the right to secure
21 money, credits, goods, or something of value, depending upon the number
22 of persons joining the plan.

23 (4) To commit, allow, or ratify any act of "bushing" which is
24 defined as follows: Taking from a prospective buyer of a vehicle a
25 written order or offer to purchase, or a contract document signed by
26 the buyer, which:

27 (a) Is subject to the dealer's, or his or her authorized
28 representative's future acceptance, and the dealer fails or refuses
29 within forty-eight hours, exclusive of Saturday, Sunday, or legal
30 holiday, and prior to any further negotiations with said buyer, to
31 deliver to the buyer either the dealer's signed acceptance or all
32 copies of the order, offer, or contract document together with any
33 initial payment or security made or given by the buyer, including but
34 not limited to money, check, promissory note, vehicle keys, a trade-in,
35 or certificate of title to a trade-in; or

36 (b) Permits the dealer to renegotiate a dollar amount specified as
37 trade-in allowance on a vehicle delivered or to be delivered by the
38 buyer as part of the purchase price, for any reason except substantial
39 physical damage or latent mechanical defect occurring before the dealer

1 took possession of the vehicle and which could not have been reasonably
2 discoverable at the time of the taking of the order, offer, or
3 contract; or

4 (c) Fails to comply with the obligation of any written warranty or
5 guarantee given by the dealer requiring the furnishing of services or
6 repairs within a reasonable time.

7 (5) To commit any offense relating to odometers, as such offenses
8 are defined in RCW 46.37.540, 46.37.550, 46.37.560, and 46.37.570. A
9 violation of this subsection is a class C felony punishable under
10 chapter 9A.20 RCW.

11 (6) For any vehicle dealer or vehicle salesman to refuse to
12 furnish, upon request of a prospective purchaser, the name and address
13 of the previous registered owner of any used vehicle offered for sale.

14 (7) To commit any other offense under RCW 46.37.423, 46.37.424, or
15 46.37.425.

16 (8) To commit any offense relating to a dealer's temporary license
17 permit, including but not limited to failure to properly complete each
18 such permit, or the issuance of more than one such permit on any one
19 vehicle.

20 (9) For a dealer, salesman, or mobile home manufacturer, having
21 taken an instrument or cash "on deposit" from a purchaser prior to the
22 delivery of the bargained-for vehicle, to commingle (~~said~~) the "on
23 deposit" funds with assets of the dealer, salesman, or mobile home
24 manufacturer instead of holding (~~said~~) the "on deposit" funds as
25 trustee in a separate trust account until the purchaser has taken
26 delivery of the bargained-for vehicle. Delivery of a manufactured home
27 shall be deemed to occur when the inspection and systems test of the
28 home is completed in accordance with RCW 46.70.135(5). Failure,
29 immediately upon receipt, to endorse "on deposit" instruments to such
30 a trust account, or to set aside "on deposit" cash for deposit in such
31 trust account, and failure to deposit such instruments or cash in such
32 trust account by the close of banking hours on the day following
33 receipt thereof, shall be evidence of intent to commit this unlawful
34 practice: PROVIDED, HOWEVER, That a motor vehicle dealer may keep a
35 separate trust account which equals his or her customary total customer
36 deposits for vehicles for future delivery. For purposes of this
37 section, "on deposit" funds received from a purchaser of a manufactured
38 home means those funds that a seller requires a purchaser to advance
39 before ordering the manufactured home, but does not include any loan

1 proceeds or moneys that might have been paid on an installment
2 contract.

3 (10) For a dealer or manufacturer to fail to comply with the
4 obligations of any written warranty or guarantee given by the dealer or
5 manufacturer requiring the furnishing of goods and services or repairs
6 within a reasonable period of time, or to fail to furnish to a
7 purchaser, all parts which attach to the manufactured unit including
8 but not limited to the undercarriage, and all items specified in the
9 terms of a sales agreement signed by the seller and buyer.

10 (11) Being a manufacturer, other than a motorcycle manufacturer
11 governed by chapter 46.94 RCW, to:

12 (a) Coerce or attempt to coerce any vehicle dealer to order or
13 accept delivery of any vehicle or vehicles, parts or accessories, or
14 any other commodities which have not been voluntarily ordered by the
15 vehicle dealer: PROVIDED, That recommendation, endorsement,
16 exposition, persuasion, urging, or argument are not deemed to
17 constitute coercion;

18 (b) Cancel or fail to renew the franchise or selling agreement of
19 any vehicle dealer doing business in this state without fairly
20 compensating the dealer at a fair going business value for his or her
21 capital investment which shall include but not be limited to tools,
22 equipment, and parts inventory possessed by the dealer on the day he or
23 she is notified of such cancellation or termination and which are still
24 within the dealer's possession on the day the cancellation or
25 termination is effective, if: (i) The capital investment has been
26 entered into with reasonable and prudent business judgment for the
27 purpose of fulfilling the franchise; and (ii) (~~said~~) the cancellation
28 or nonrenewal was not done in good faith. Good faith is defined as the
29 duty of each party to any franchise to act in a fair and equitable
30 manner towards each other, so as to guarantee one party freedom from
31 coercion, intimidation, or threats of coercion or intimidation from the
32 other party: PROVIDED, That recommendation, endorsement, exposition,
33 persuasion, urging, or argument are not deemed to constitute a lack of
34 good faith.

35 (c) Encourage, aid, abet, or teach a vehicle dealer to sell
36 vehicles through any false, deceptive, or misleading sales or financing
37 practices including but not limited to those practices declared
38 unlawful in this section;

1 (d) Coerce or attempt to coerce a vehicle dealer to engage in any
2 practice forbidden in this section by either threats of actual
3 cancellation or failure to renew the dealer's franchise agreement;

4 (e) Refuse to deliver any vehicle publicly advertised for immediate
5 delivery to any duly licensed vehicle dealer having a franchise or
6 contractual agreement for the retail sale of new and unused vehicles
7 sold or distributed by such manufacturer within sixty days after such
8 dealer's order has been received in writing unless caused by inability
9 to deliver because of shortage or curtailment of material, labor,
10 transportation, or utility services, or by any labor or production
11 difficulty, or by any cause beyond the reasonable control of the
12 manufacturer;

13 (f) To provide under the terms of any warranty that a purchaser of
14 any new or unused vehicle that has been sold, distributed for sale, or
15 transferred into this state for resale by the vehicle manufacturer may
16 only make any warranty claim on any item included as an integral part
17 of the vehicle against the manufacturer of that item.

18 Nothing in this section may be construed to impair the obligations
19 of a contract or to prevent a manufacturer, distributor,
20 representative, or any other person, whether or not licensed under this
21 chapter, from requiring performance of a written contract entered into
22 with any licensee hereunder, nor does the requirement of such
23 performance constitute a violation of any of the provisions of this
24 section if any such contract or the terms thereof requiring
25 performance, have been freely entered into and executed between the
26 contracting parties. This paragraph and subsection (11)(b) of this
27 section do not apply to new motor vehicle manufacturers governed by
28 chapter 46.96 RCW.

29 (12) Unlawful transfer of an ownership interest in a motor vehicle
30 as defined in RCW 19.116.050.

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