

1 1458 AAS 4/15/97 S2839.1

2 HB 1458 - S COMM AMD

3 By Committee on Transportation

4 ADOPTED - BILL HELD ON RECONSID 4/15/97; RECONSID - BILL PASSED 4/17/97

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 46.70.023 and 1996 c 282 s 1 are each amended to read
8 as follows:

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

1 auction companies that do not own vehicle inventory or sell vehicles
2 from an auction yard.

3 (2) An auction company shall have office facilities within the
4 state. The books, records, and files necessary to conduct the business
5 shall be maintained at the office facilities. All storage facilities
6 for inventory shall be listed with the department, and shall meet local
7 zoning and land use ordinances. An auction company shall maintain a
8 telecommunications system.

9 (3) Auction companies shall post their vehicle dealer license at
10 each auction where vehicles are offered, and shall provide the
11 department with the address of the auction at least three days before
12 the auction.

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

24 (5) All vehicle dealers shall maintain ownership or leasehold
25 throughout the license year of the real property from which they do
26 business. The dealer shall provide the department with evidence of
27 ownership or leasehold whenever the ownership changes or the lease is
28 terminated.

29 (6) A subagency shall comply with all requirements of an
30 established place of business, except that subagency records may be
31 kept at the principal place of business designated by the dealer.
32 Auction companies shall comply with the requirements in subsection (2)
33 of this section.

34 (7) A temporary subagency shall meet all local zoning and building
35 codes for the type of merchandising being conducted. The dealer
36 license certificate shall be posted at the location. No other
37 requirements of an established place of business apply to a temporary
38 subagency. Auction companies are not required to obtain a temporary
39 subagency license.

1 (8) A wholesale vehicle dealer shall have office facilities in a
2 commercial building within this state, and all storage facilities for
3 inventory shall be listed with the department, and shall meet local
4 zoning and land use ordinances. A wholesale vehicle dealer shall
5 maintain a telecommunications system. An exterior sign visible from
6 the nearest street shall identify the business name and the nature of
7 business. (~~(A wholesale dealer need not maintain a display area as~~
8 ~~required in this section.)~~) When two or more vehicle dealer businesses
9 share a location, all records, office facilities, and inventory, if
10 any, must be physically segregated and clearly identified.

11 (9) A retail vehicle dealer shall be open during normal business
12 hours, maintain office and display facilities in a commercially zoned
13 location or in a location complying with all applicable building and
14 land use ordinances, and maintain a business telephone listing in the
15 local directory. When two or more vehicle dealer businesses share a
16 location, all records, office facilities, and inventory shall be
17 physically segregated and clearly identified.

18 (10) (~~(A listing dealer need not have a display area if the dealer~~
19 ~~does not physically maintain any vehicles for display.~~

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

27 (~~(12))~~) (11) Every vehicle dealer shall advise the department of
28 the location of each and every place of business of the firm and the
29 name or names under which the firm is doing business at such location
30 or locations. If any name or location is changed, the dealer shall
31 notify the department of such change within ten days. The license
32 issued by the department shall reflect the name and location of the
33 firm and shall be posted in a conspicuous place at that location by the
34 dealer.

35 (~~(13))~~) (12) A vehicle dealer's license shall upon the death or
36 incapacity of an individual vehicle dealer authorize the personal
37 representative of such dealer, subject to payment of license fees, to
38 continue the business for a period of six months from the date of the
39 death or incapacity.

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

3 The director may deny a license under this chapter when the
4 application is a subterfuge that conceals the real person in interest
5 whose license has been denied, suspended, or revoked for cause under
6 this chapter and the terms have not been fulfilled or a civil penalty
7 has not been paid, or the director finds that the application was not
8 filed in good faith. This section does not preclude the department
9 from taking an action against a current licensee.

10 NEW SECTION. **Sec. 3.** A new section is added to chapter 88.02 RCW
11 to read as follows:

12 The director may deny a license under this chapter when the
13 application is a subterfuge that conceals the real person in interest
14 whose license has been denied, suspended, or revoked for cause under
15 this chapter and the terms have not been fulfilled or a civil penalty
16 has not been paid, or the director finds that the application was not
17 filed in good faith. This section does not preclude the department
18 from taking an action against a current licensee.

19 **Sec. 4.** RCW 46.70.051 and 1996 c 282 s 2 are each amended to read
20 as follows:

21 (1) After the application has been filed, the fee paid, and bond
22 posted, if required, the department shall, if no denial order is in
23 effect and no proceeding is pending under RCW 46.70.101, issue the
24 appropriate license, which license, in the case of a vehicle dealer,
25 shall designate the classification of the dealer. Nothing prohibits a
26 vehicle dealer from obtaining licenses for more than one
27 classification, and nothing prevents any vehicle dealer from dealing in
28 other classes of vehicles on an isolated basis.

29 (2) An auction company licensed under chapter 18.11 RCW may sell at
30 auction all classifications of vehicles under a motor vehicle dealer's
31 license issued under this chapter including motor vehicles,
32 miscellaneous type vehicles, and mobile homes and travel trailers.

33 (3) At the time the department issues a vehicle dealer license, the
34 department shall provide to the dealer a current, up-to-date vehicle
35 dealer manual setting forth the various statutes and rules applicable
36 to vehicle dealers. In addition, at the time any such license is

1 renewed under RCW 46.70.083, the department shall provide the dealer
2 with any updates or current revisions to the vehicle dealer manual.

3 (4) The department may contract with responsible private parties to
4 provide them elements of the vehicle data base on a regular basis. The
5 private parties may only disseminate this information to licensed
6 vehicle dealers.

7 (a) Subject to the disclosure agreement provisions of RCW 46.12.380
8 and the requirements of Executive Order 97-01, the department may
9 provide to the contracted private parties the following information:

10 (i) All vehicle and title data necessary to accurately disclose
11 known title defects, brands, or flags and odometer discrepancies;

12 (ii) All registered and legal owner information necessary to
13 determine true ownership of the vehicle and the existence of any
14 recorded liens, including but not limited to liens of the department of
15 social and health services or its successor; and

16 (iii) Any data in the department's possession necessary to
17 calculate the motor vehicle excise tax, license, and registration fees
18 including information necessary to determine the applicability of
19 regional transit authority excise and use tax surcharges.

20 (b) The department may provide this information in any form the
21 contracted private party and the department agree upon, but if the data
22 is to be transmitted over the Internet or similar public network from
23 the department to the contracted private party, it must be encrypted.

24 (c) The department shall give these contracted private parties
25 advance written notice of any change in the information referred to in
26 (a)(i), (ii), or (iii) of this subsection, including information
27 pertaining to the calculation of motor vehicle excise taxes.

28 (d) The department shall revoke a contract made under this
29 subsection (4) with a private party who disseminates information from
30 the vehicle data base to anyone other than a licensed vehicle dealer.
31 A private party who obtains information from the vehicle data base
32 under a contract with the department and disseminates any of that
33 information to anyone other than a licensed vehicle dealer is guilty of
34 a gross misdemeanor punishable under chapter 9A.20 RCW.

35 (e) Nothing in this subsection (4) authorizes a vehicle dealer or
36 any other organization or entity not otherwise appointed as a vehicle
37 licensing subagent under RCW 46.01.140 to perform any of the functions
38 of a vehicle licensing subagent so appointed.

1 **Sec. 5.** RCW 46.12.170 and 1994 c 262 s 6 are each amended to read
2 as follows:

3 If, after a certificate of ownership is issued, a security interest
4 is granted on the vehicle described therein, the registered owner or
5 secured party shall, within ten days thereafter, present an application
6 to the department, to which shall be attached the certificate of
7 ownership last issued covering the vehicle, or such other documentation
8 as may be required by the department, which application shall be upon
9 a form provided by the department and shall be accompanied by a fee of
10 one dollar and twenty-five cents in addition to all other fees. The
11 department, if satisfied that there should be a reissue of the
12 certificate, shall note such change upon the vehicle records and issue
13 to the secured party a new certificate of ownership.

14 Whenever there is no outstanding secured obligation and no
15 commitment to make advances and incur obligations or otherwise give
16 value, the secured party must assign the certificate of ownership to
17 the debtor or the debtor's assignee or transferee, and transmit the
18 certificate to the department with an accompanying fee of one dollar
19 and twenty-five cents in addition to all other fees. The department
20 shall then issue a new certificate of ownership and transmit it to the
21 owner. If the affected secured party fails to either assign the
22 certificate of ownership to the debtor or the debtor's assignee or
23 transferee or transmit the certificate of ownership to the department
24 within ten days after proper demand, that secured party shall be liable
25 to the debtor or the debtor's assignee or transferee for one hundred
26 dollars, and in addition for any loss caused to the debtor or the
27 debtor's assignee or transferee by such failure.

28 **Sec. 6.** RCW 46.12.370 and 1982 c 215 s 1 are each amended to read
29 as follows:

30 In addition to any other authority which it may have, the
31 department of licensing may furnish lists of registered and legal
32 owners of motor vehicles only for the purposes specified in this
33 section to:

34 (1) The manufacturers of motor vehicles, or their authorized
35 agents, to be used to enable those manufacturers to carry out the
36 provisions of the National Traffic and Motor Vehicle Safety Act of 1966
37 (15 U.S.C. sec. 1382-1418), including amendments or additions thereto,
38 respecting safety-related defects in motor vehicles;

1 (2) Any governmental agency of the United States or Canada, or
2 political subdivisions thereof, to be used by it or by its authorized
3 commercial agents or contractors only in connection with the
4 enforcement of motor vehicle or traffic laws by, or programs related to
5 traffic safety of, that government agency. Only such parts of the list
6 as are required for completion of the work required of the agent or
7 contractor shall be provided to such agent or contractor; (~~or~~)

8 (3) An authorized agent or contractor of the department, to be used
9 only in connection with providing motor vehicle excise tax, licensing,
10 title, and registration information to motor vehicle dealers; or

11 (4) Any business regularly making loans to other persons to finance
12 the purchase of motor vehicles, to be used to assist the person
13 requesting the list to determine ownership of specific vehicles for the
14 purpose of determining whether or not to provide such financing. In
15 the event a list of registered and legal owners of motor vehicles is
16 used for any purpose other than that authorized in (~~subsections (1),~~
17 ~~(2) and (3) of~~) this section, the manufacturer, governmental agency,
18 authorized agent, contractor, financial institution, or their
19 authorized agents or contractors responsible for the unauthorized
20 disclosure or use will be denied further access to such information by
21 the department of licensing.

22 **Sec. 7.** RCW 82.44.060 and 1990 c 42 s 304 are each amended to read
23 as follows:

24 (1) The excise tax hereby imposed shall be due and payable to the
25 department or its agents at the time of registration of a motor
26 vehicle. Whenever an application is made to the department or its
27 agents for a license for a motor vehicle there shall be collected, in
28 addition to the amount of the license fee or renewal license fee, the
29 amount of the excise tax imposed by this chapter, and no dealer's
30 license or license plates, and no license or license plates for a motor
31 vehicle shall be issued unless such tax is paid in full. The excise
32 tax hereby imposed shall be collected for each registration year. The
33 excise tax upon a motor vehicle licensed for the first time in this
34 state shall be levied for one full registration year commencing on the
35 date of the calendar year designated by the department and ending on
36 the same date of the next succeeding calendar year. For vehicles
37 registered under chapter 46.87 RCW, proportional registration, and for
38 vehicle dealer plates issued under chapter 46.70 RCW, the registration

1 year is the period provided in those chapters: PROVIDED, That the tax
2 shall in no case be less than two dollars except for proportionally
3 registered vehicles.

4 (2) A motor vehicle shall be deemed licensed for the first time in
5 this state when such vehicle was not previously licensed by this state
6 for the registration year immediately preceding the registration year
7 in which the application for license is made or when the vehicle has
8 been registered in another jurisdiction subsequent to any prior
9 registration in this state.

10 (3) No additional tax shall be imposed under this chapter upon any
11 vehicle upon the transfer of ownership thereof if the tax imposed with
12 respect to such vehicle has already been paid for the registration year
13 or fraction of a registration year in which transfer of ownership
14 occurs.

15 (4) The regional transit authority (RTA) must provide at no cost to
16 the private parties referred to in RCW 46.70.051(4) accurate, up-to-
17 date, and easily decipherable excise tax information in a machine
18 readable ASCII text file. This file will allow the contracted private
19 parties to accurately determine which individuals are subject to any
20 such special excise or use taxes and the amount of any such special
21 excise or use taxes. The file must contain the following items: (a)
22 A list of five digit zip codes completely contained within the RTA
23 taxation area; (b) a list of five digit zip codes for those areas on
24 the border of the RTA taxation, with the border area defined as those
25 zip codes where some residences may be subject to the RTA use or motor
26 vehicle excise tax surcharge and some residences are not; and (c) for
27 those residences described in (b) of this subsection, a complete list
28 of only those street addresses subject to RTA taxation.

29 (5) No person may be denied issuance of a registration or license
30 plates due to the nonpayment of any such special excise tax if the
31 information referred to in subsection (4) of this section is not
32 provided by the RTA to the contracted private parties.

33 (6) No motor vehicle dealer may be held liable for the remittance
34 of any such special excise tax if the information referred to in
35 subsection (4) of this section is not provided by the RTA to the
36 contracted private parties."

1 **HB 1458** - S COMM AMD
2 By Committee on Transportation

ADOPTED 4/15/97

3
4 On page 1, line 1 of the title, after "licensing;" strike the
5 remainder of the title and insert "amending RCW 46.70.023, 46.70.051,
6 46.12.170, 46.12.370, and 82.44.060; adding a new section to chapter
7 46.70 RCW; adding a new section to chapter 88.02 RCW; and prescribing
8 penalties."

--- END ---