

HOUSE BILL REPORT

HB 1722

As Passed Legislature

Title: An act relating to wholesale vehicle dealers.

Brief Description: Eliminating wholesale vehicle dealer licensing.

Sponsors: Representatives Kirby and Vick.

Brief History:

Committee Activity:

Business & Financial Services: 2/7/17, 2/14/17 [DP];

Transportation: 2/20/17, 2/21/17 [DP].

Floor Activity:

Passed House: 3/3/17, 71-26.

Passed Senate: 3/30/17, 46-3.

Passed Legislature.

Brief Summary of Bill

- Prohibits the Department of Licensing (DOL) from issuing new wholesale vehicle dealer licenses, effective July 1, 2017.
- Prohibits the DOL from renewing any wholesale vehicle dealer licenses, effective July 1, 2018.
- Eliminates the wholesale vehicle dealer license category completely, effective July 1, 2019.

HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

Majority Report: Do pass. Signed by 10 members: Representatives Kirby, Chair; Reeves, Vice Chair; Vick, Ranking Minority Member; Barkis, Bergquist, Blake, Jenkin, McCabe, Santos and Stanford.

Minority Report: Do not pass. Signed by 1 member: Representative J. Walsh, Assistant Ranking Minority Member.

Staff: Peter Clodfelter (786-7127).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass. Signed by 23 members: Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Wylie, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Harmsworth, Assistant Ranking Minority Member; Chapman, Gregerson, Hayes, Irwin, Kloba, Lovick, McBride, Morris, Ortiz-Self, Pellicciotti, Pike, Riccelli, Stambaugh, Tarleton, Van Werven and Young.

Minority Report: Do not pass. Signed by 1 member: Representative Shea.

Staff: Patricia Hasan (786-7292).

Background:

Licensed Vehicle Dealers Generally.

The Department of Licensing (DOL) is responsible for licensing all motor vehicle dealers operating in Washington. A "vehicle dealer" is defined to include a person, business, or trust that is engaged in the business of buying, selling, listing, exchanging, offering, brokering, leasing with an option to purchase, or advertising the sale of new or used vehicles, irrespective of whether the motor vehicles are owned by that person.

With certain exceptions, a person selling more than four vehicles per year that are registered to the person must have a vehicle dealer license. A person selling any vehicles not registered to the person must have a vehicle dealer license. In addition to the license requirement, vehicle dealers must file a surety bond with the DOL. Generally, the surety bond must be in the amount of \$30,000.

Within the broad category of "vehicle dealers" are several subcategories of vehicle dealers. The fee for each type of vehicle dealer license is \$975. The subcategories of vehicle dealers are the following:

- A "motor vehicle dealer" is a vehicle dealer that deals in new or used motor vehicles.
- A "retail vehicle dealer" is a vehicle dealer that may buy and sell vehicles at both wholesale and retail.
- A "wholesale vehicle dealer" is a vehicle dealer that buys and sells other than at retail and who buys vehicles from or sells vehicles to other Washington licensed dealers.
- A "mobile home and travel trailer dealer" is a vehicle dealer that deals in mobile homes, park trailers, or travel trailers.
- A "miscellaneous vehicle dealer" is a vehicle dealer that deals in motorcycles or vehicles other than motor vehicles or mobile homes and travel trailers (\$5,000 surety bond instead of \$30,000 surety bond).

The business of a vehicle dealer must be lawfully carried on at an established place of business in accordance with the terms of all applicable building code, zoning, and other land-use regulatory ordinances. An established place of business is a permanent, enclosed commercial building located in Washington that is easily accessible at all reasonable times. Generally, a vehicle dealer's building must be kept open to the public so that the public may contact the vehicle dealer or the vehicle dealer's salespersons at all reasonable times (at least 10:00 a.m. to 4:00 p.m.). A retail vehicle dealer must also maintain display facilities.

Wholesale Vehicle Dealers.

Certain requirements that apply to other types of vehicle dealers do not apply to wholesale vehicle dealers and additional specific requirements apply to wholesale vehicle dealers. Wholesale vehicle dealers are not required to maintain normal business hours or display facilities, are not required to have a building that is kept open to the public at all reasonable times, and are not required to have a telephone book listing, like other vehicle dealers. But all storage facilities for a wholesale vehicle dealer's inventory must be listed with the DOL and comply with local land use ordinances. Also, a wholesale vehicle dealer must maintain a telecommunications system, and an exterior sign, visible from the nearest street, must identify the wholesale vehicle dealer's business name and the nature of business. If a wholesale vehicle dealer and another vehicle dealer or dealers businesses share a location, all records, office facilities, and inventory, if any, must be physically segregated and clearly identified. Because of legislation enacted in 2016, wholesale vehicle dealers are also required to buy from or sell vehicles to other Washington licensed vehicle dealers. And a wholesale vehicle dealer's required office facilities must be in a commercial building in which there are not more than two other wholesale or retail vehicle dealers in the same building.

Summary of Bill:

The wholesale vehicle dealer license is phased out over a two-year period. Effective July 1, 2017, the Department of Licensing (DOL) may not issue any new wholesale vehicle dealer licenses. Effective July 1, 2018, the DOL may not renew any wholesale vehicle dealer licenses. On July 1, 2019, the wholesale vehicle dealer license category and all references to wholesale vehicle dealers are removed from law.

Appropriation: None.

Fiscal Note: Available.

Effective Date: This bill takes effect on July 1, 2019, except for section 1, relating to license issuance dates, which contains an emergency clause and takes effect on June 30, 2017.

Staff Summary of Public Testimony (Business & Financial Services):

(In support) The Department of Licensing (DOL) continues to be concerned about people operating throughout the United States under authority of a Washington wholesale vehicle dealer license who do not reside in, or have any other connection to, Washington. The state is not receiving any economic benefit from these licensees, and the state is spending unnecessary resources in addressing problems related to the way the license category is being used. The DOL has received numerous complaints from other states' law enforcement agencies, as well as federal law enforcement agencies, about different investigations of people who are suspected of criminal activity and who have a Washington wholesale vehicle dealer license or are connected to a vehicle with a Washington wholesale vehicle dealer plate. Iowa reportedly has several staff and an intern tasked solely with investigating complaints related to Washington wholesale vehicle dealers in Iowa. There are reportedly

criminal investigations ongoing in states including Wyoming, Colorado, and Illinois. The DOL generally lacks jurisdiction out of state.

The requirements associated with obtaining a wholesale vehicle dealer license are relatively low, and the sale of Washington wholesale vehicle dealer licenses is facilitated by at least one company operating an Internet website and marketing to people throughout the United States. The benefits of holding a state's wholesale vehicle dealer license is the ability to access dealer-only auctions and to receive dealer license plates, which may be transferred between vehicles. It is illegal for wholesale dealers to sell at retail, but there have been reports of retail sales. In 2016 the Legislature first considered eliminating the wholesale vehicle dealer license in response to the reported problems, but instead added the colocation requirement that a wholesale vehicle dealer must have its office facilities in a building with no more than two other vehicle dealers in the same building. This approach did not solve the problems. Where there were once buildings housing up to 100 wholesale vehicle dealers' required office facilities, roughly those same number of empty offices are spread throughout the state, many in Eastern Washington. The pictures shown to the Committee speak for themselves, and each facility requires an inspection by the DOL. There is no evidence that a great number of the wholesale vehicle dealers have ever been to Washington or conduct business at their office facility. It is time to phase out the wholesale vehicle dealer license, while also establishing a two-year transition period. The Washington retail vehicle dealer license allows for wholesale sales, so any existing licensees in Washington can transition to a retail vehicle dealer license over the next two years.

(Opposed) The state should not target and penalize one company for operating within the laws. The 2016 law required numerous state-licensed wholesale vehicle dealers to move their office facilities, and now they are being penalized for following the new law. The DOL believes it lacks jurisdiction over licensees operating out of state, but any person can recover on the bond that a Washington licensed wholesale vehicle dealer is required to maintain. A wholesale vehicle dealer's bond provides a remedy for any person damaged by the actions of a wholesale vehicle dealer. This bill will hurt Washington residents who are wholesale vehicle dealers, and cause them to start looking for another state's license, similar to what is happening in Washington currently. The bill will also hurt Washington consumers and hurt competition. A proposal has been presented to the DOL to solve the specific criminal problems related to the wholesale vehicle dealer license program; stakeholders are committed to working with the DOL.

Staff Summary of Public Testimony (Transportation):

(In support) People who are out of state are able to get wholesale vehicle dealer licenses from Washington and then can conduct illegal activities using the license. The timeline to phase out the wholesale vehicle dealer license will allow legitimate companies, most of which are domiciled within a retail vehicle dealer, a year to make arrangements to continue their work.

Washington is one of several states to offer the wholesale vehicle dealer licenses. Recently, the State of Indiana has eliminated their wholesale vehicle dealer license after seeing similar issues like Washington is experiencing. The context received from the Federal Bureau of Investigation and federal and state law enforcement in the last several years focuses on organized crime using Washington wholesale vehicle dealer license plates; fraud and

consumer protection issues with wholesale dealers selling vehicles as retail, which is expressly prohibited with a wholesale vehicle dealer license; and insurance and bond fraud. Very little of the commerce that comes from this license is occurring in Washington given the significant increase in the number of issued licenses in recent years. The DOL is also using significant staff time to conduct investigations on license holders.

(Opposed) None.

Persons Testifying (Business & Financial Services): (In support) Representative Kirby, Chair; and Toni Sermonti, Department of Licensing.

(Opposed) Mauricio Kiglies, American Dealer License, Inc.

Persons Testifying (Transportation): Representative Kirby, prime sponsor; and Tony Sermonti, Department of Licensing.

Persons Signed In To Testify But Not Testifying (Business & Financial Services): None.

Persons Signed In To Testify But Not Testifying (Transportation): None.