

SHB 2374 - S COMM AMD
By Committee on Labor & Commerce

ADOPTED 03/06/2020

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 46.96
4 RCW to read as follows:

5 (1) Notwithstanding the terms of a franchise agreement, a brand
6 owner shall not directly or indirectly:

7 (a) Require a new motor vehicle dealer to offer a secondary
8 product;

9 (b) Require a new motor vehicle dealer to provide a customer with
10 a disclosure not otherwise required by law; or

11 (c) Prohibit a new motor vehicle dealer from offering a secondary
12 product including, but not limited to:

13 (i) Service contracts;

14 (ii) Maintenance agreements;

15 (iii) Extended warranties;

16 (iv) Protection product guarantees;

17 (v) Guaranteed asset protection waivers;

18 (vi) Insurance;

19 (vii) Replacement parts;

20 (viii) Vehicle accessories;

21 (ix) Oil; or

22 (x) Supplies.

23 (2) It is not a violation of this section for a brand owner to
24 offer an incentive program to new motor vehicle dealers to encourage
25 them to sell or offer to sell a secondary product approved, endorsed,
26 sponsored, or offered by the brand owner, provided the program does
27 not provide vehicle sales or service incentives.

28 (3) It is not a violation of this section for a brand owner to
29 prohibit a new motor vehicle dealer from using secondary products for
30 any repair work paid for by the brand owner under the terms of a
31 warranty, recall, service contract, extended warranty, maintenance

1 plan, or certified preowned vehicle program established or offered by
2 the brand owner.

3 (4) For the purposes of this section:

4 (a) "Brand owner" means a manufacturer, distributor, factory
5 branch, factory representative, agent, officer, parent company,
6 wholly or partially owned subsidiary, affiliate entity, or other
7 person under common control with a factory, importer, or distributor.

8 (b) "Common control" has the same meaning as in RCW 48.31B.005.

9 (c) "Customer" means the retail purchaser of a vehicle or
10 secondary product from a new motor vehicle dealer.

11 (d) "Original equipment manufacturer parts" means parts
12 manufactured by or for a vehicle's original manufacturer or its
13 designee.

14 (e) "Secondary product" means all products that are not new motor
15 vehicles or original equipment manufacturer parts.

16 **Sec. 2.** RCW 63.14.043 and 2006 c 288 s 1 are each amended to
17 read as follows:

18 (1) If a retail installment contract for the purchase of a motor
19 vehicle meets the requirements of this chapter and meets the
20 requirements of any federal law applicable to a retail installment
21 contract for the purchase of a motor vehicle, the retail installment
22 contract shall be accepted for consideration by any lender, except
23 for lenders licensed and regulated under the provisions of chapter
24 31.04 RCW, to whom application for credit relating to the retail
25 installment contract is made.

26 (2) If a retail installment contract for the purchase of a motor
27 vehicle includes the purchase of a secondary product, a lender who
28 shares common control with a brand owner may not directly or
29 indirectly require, as a condition of acceptance of assignment of the
30 retail installment contract, that the buyer purchase a secondary
31 product from a particular provider, administrator, or insurer. A
32 violation of this subsection is deemed to affect the public interest
33 and constitutes an unlawful and unfair practice under chapter 19.86
34 RCW.

35 (3) For the purposes of this section, "secondary product,"
36 "common control," and "brand owner" have the same meanings as
37 provided in section 1 of this act."

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1 On page 1, line 2 of the title, after "manufacturer;" strike the
2 remainder of the title and insert "amending RCW 63.14.043; and adding
3 a new section to chapter 46.96 RCW."

EFFECT: Provides that it is not a violation for a brand owner to prohibit a new motor vehicle dealer from using secondary products for any repair work paid for by the brand owner under the terms of a warranty, recall, service contract, extended warranty, maintenance plan, or certified preowned vehicle program established or offered by the brand owner.

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