

HOUSE BILL REPORT

SHB 2374

As Passed Legislature

Title: An act relating to preserving the ability of auto dealers to offer consumers products not supplied by an auto manufacturer.

Brief Description: Preserving the ability of auto dealers to offer consumers products not supplied by an auto manufacturer.

Sponsors: House Committee on Consumer Protection & Business (originally sponsored by Representatives Kirby, Vick, Ryu, Barkis, Young, Wylie, Doglio, Goodman and Pollet).

Brief History:

Committee Activity:

Consumer Protection & Business: 1/21/20, 1/24/20 [DPS].

Floor Activity:

Passed House: 2/12/20, 96-0.

Senate Amended.

Passed Senate: 3/6/20, 47-1.

House Concurred.

Passed House: 3/9/20, 96-0.

Passed Legislature.

Brief Summary of Substitute Bill

- Prohibits a motor vehicle brand owner (brand owner) from requiring a new motor vehicle dealer (dealer) to offer a secondary product or provide a disclosure not otherwise required by law.
- Allows a brand owner to prohibit a dealer from using secondary products for any repair work paid for by the brand owner under certain circumstances.
- Prohibits a brand owner from preventing a dealer from offering a secondary product to customers.
- Prohibits a lender who shares common control with an automobile brand owner from requiring a customer to purchase a secondary product from a specific provider, administrator, or insurer.

HOUSE COMMITTEE ON CONSUMER PROTECTION & BUSINESS

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.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Kirby, Chair; Vick, Ranking Minority Member; Hoff, Assistant Ranking Minority Member; Barkis, Blake, Duerr, Dufault, Johnson, J., Ryu, Santos, Volz, Walen and Ybarra.

Staff: Serena Dolly (786-7150).

Background:

A new motor vehicle manufacturer (manufacturer) or brand owner maintains a relationship with a dealer through a franchise agreement. The responsibilities of each party are delineated in state law and the franchise agreement. State law generally dictates when a manufacturer may own or terminate a dealer's franchise, that manufacturers may not discriminate between dealers, and how manufacturers must reimburse a dealer for warranty work. In addition, various practices are prohibited in the dealer franchise law.

Retail installment contracts are regulated by state law. A retail installment sales contract is used when a buyer purchases a motor vehicle from a dealer, and the buyer requests that the dealer provide financing for the vehicle. Generally, the dealer then assigns or sells these contracts to a financial institution as soon as the purchase transaction for the vehicle is complete.

Summary of Substitute Bill:

A "secondary product" is defined as all products that are not new motor vehicles or original equipment manufacturer parts.

A brand owner may not require a dealer to offer a secondary product or provide a disclosure not otherwise required by law. A brand owner may not prohibit a dealer from offering a secondary product, including service contracts, maintenance agreements, extended warranties, protection product guarantees, guaranteed asset protection waivers, insurance, replacement parts, vehicle accessories, oil, and supplies. A brand owner may offer an incentive program to a dealer to encourage the dealer to sell or offer a specific secondary product.

A brand owner may prohibit a 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.

A lender who shares common control with a brand owner may not require a customer to purchase a secondary product from a particular provider, administrator, or insurer. A violation constitutes an unlawful practice under the Consumer Protection Act.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill tries to address the emerging national problem of manufacturers requiring dealers to offer only their products. The long-term relationship between manufacturers and dealers is an uneven one with the manufacturers holding most power. This bill is intended to preserve consumer choice and allow dealers to continue offering a variety of products, including service contracts, to customers. Dealers currently offer service contracts from both manufacturers and independent providers. Independent service contracts can be more flexible, include more options, and drive competition. This bill protects the ability of dealers to offer the best aftermarket accessories, such as bed liners, roof racks, and running boards, from manufacturers and other providers. Dealers also need to be able to continue to access the secondary market as OEM parts are not always available.

(Opposed) Manufacturers are concerned this bill will allow the use of parts that are not OEM for warranty work and certified cars. This is not what customers are promised or expect, and manufacturers would not even be able to require dealers to disclose the use of non-OEM parts.

(Other) The industry should be allowed to access the secondary market and use recycled parts. Some of the definitions in the bill need to be revised.

Persons Testifying: (In support) Representative Kirby, prime sponsor; Scott Hazlegrove, Washington State Auto Dealers Association; Jennifer Hannah, Dick Hannah Dealerships; Michael Titus, Bruce Titus Automotive Group; Jim King, Independent Business Association, Auto Recyclers of WA.

(Opposed) Ryan Spiller, Alliance for Automotive Innovation.

(Other) Catalina Jelkh Pareja, LKQ Corporation.

Persons Signed In To Testify But Not Testifying: None.