

# SENATE BILL REPORT

## SHB 2374

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As Passed Senate - Amended, March 6, 2020

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

**Committee Activity:** Labor & Commerce: 2/25/20 [DPA, w/oRec].

**Floor Activity:**

Passed Senate - Amended: 3/06/20, 47-1.

### Brief Summary of First Substitute Bill

- Prohibits a motor vehicle brand owner (brand owner) from requiring a new motor vehicle dealer to offer a secondary product or provide a disclosure not otherwise required by law.
- Allows 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 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.

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### SENATE COMMITTEE ON LABOR & COMMERCE

**Majority Report:** Do pass as amended.

Signed by Senators Keiser, Chair; Conway, Vice Chair; King, Ranking Member; Saldaña, Schoesler, Stanford, Walsh and Wellman.

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*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.*

**Minority Report:** That it be referred without recommendation.

Signed by Senator Braun.

**Staff:** Susan Jones (786-7404)

**Background:** A new motor vehicle manufacturer (manufacturer) or new motor vehicle brand owner (brand owner) maintains a relationship with a new motor vehicle dealer (dealer) through a franchise agreement. The responsibilities of each party are delineated in state law and the franchise agreement between the parties. 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 First Substitute Bill:** 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.

It is not a violation of this section 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.

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.

A secondary product means all products that are not new motor vehicles or original equipment manufacturer parts. Original equipment manufacturer parts means parts manufactured by or for a vehicle's original manufacturer or its designee.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Substitute House Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: Dealers are looking to maintain their ability to offer consumers choices. They worked on language where the manufacturer is paying for the services. We are opposed to having the manufacturer dictate to the dealer the disclosures.

CON: We are opposed to the bill. We are asking for two amendments. First, when the manufacturer is paying for the services as the language in Senator Saldana's amendment. Second, when a consumer is at a franchise dealer, the consumer assumes they are the manufacturer's parts and are backed by the manufacturer. Currently, they can require the dealer to make a disclosure that the parts are made and backed by the manufacturer. Consumers have voiced concerns and they should be told that the parts are not made and backed by the manufacturer. This protects the consumer from being fooled and the manufacturer's reputation.

**Persons Testifying:** PRO: Scott Hazlegrove, Washington State Auto Dealers Association.

CON: Ryan Spiller, Alliance for Automotive Innovation; Curt Augustine, Alliance for Automotive Innovation.

**Persons Signed In To Testify But Not Testifying:** No one.