

SENATE BILL REPORT

SB 6340

As of February 5, 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: Senators Conway, King, Hunt, Mullet, Saldaña, Stanford and Zeiger.

Brief History:

Committee Activity: Labor & Commerce: 2/04/20.

Brief Summary of 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.
- 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.

SENATE COMMITTEE ON LABOR & COMMERCE

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.

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.

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 Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): 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 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.

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 Proposed Substitute: PRO: This is another chapter in the struggle between the automobile manufacturers and dealers. The manufacturers are trying to force dealers to sell secondary products. This bill will restore the balance between them. Manufacturers are starting to move beyond selling vehicles and parts into selling other products. They ask dealers to sell them. Dealers want the flexibility to offer choices to their customers and products best suited for the customers. It may be as simple as oil or accessory items. Independent service contracts are governed and licensed by the insurance commissioner. We are clear that they are independent plans and not the manufacturer plans. This competition keeps the prices down. When manufacturers insist that you sell their products or a certain number, that hurts customers.

CON: This bill allows dealers to use non-branded parts for certain items that the manufacturers pay for, like recalls. If manufacturers are paying for the services, dealers should use the manufacturers' parts. That is what the consumers want. There should be a disclosure if non-manufacturer parts are used. For the financing programs, we are forced to use our incentivized rate to pay someone else's warranty.

Persons Testifying: PRO: Senator Steve Conway, Prime Sponsor; Scott Hazlegrove, Washington State Auto Dealers Association; Jon Creedon, Vancouver Ford; Michael Titus, Bruce Titus Automotive Group.

CON: Ryan Spiller, Alliance for Automotive Innovation.

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