

2 **HB 1029** - S COMM AMD

3 By Committee on Labor & Commerce

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5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 46.70 RCW
8 to read as follows:

9 (1) In addition to the requirements contained in RCW 46.70.135,
10 each sale of a new manufactured home in this state is made with an
11 implied warranty that the manufactured home conforms in all material
12 aspects to applicable federal and state laws and regulations
13 establishing standards of safety or quality, and with implied
14 warranties of merchantability and fitness for a particular purpose as
15 permanent housing in the climate of the state.

16 (2) The implied warranties contained in this section may not be
17 waived, limited, or modified. Any provision that attempts to waive,
18 limit, or modify the implied warranties contained in this section is
19 void and unenforceable.

20 NEW SECTION. **Sec. 2.** A new section is added to chapter 46.70 RCW
21 to read as follows:

22 Any dealer, manufacturer, or contractor who installs a manufactured
23 home warrants that the manufactured home is installed in accordance
24 with the state installation code, chapter 296-150B WAC. The warranty
25 contained in this section may not be waived, limited, or modified. Any
26 provision attempting to waive, limit, or modify the warranty contained
27 in this section is void and unenforceable. This section does not apply
28 when the manufactured home is installed by the purchaser of the home.

29 **Sec. 3.** RCW 46.70.135 and 1989 c 343 s 22 are each amended to read
30 as follows:

31 Mobile home manufacturers and mobile home dealers who sell mobile
32 homes to be assembled on site and used as residences in this state
33 shall conform to the following requirements:

1 (1) No new manufactured home may be sold unless the purchaser is
2 provided with a manufacturer's written warranty for construction of the
3 home in compliance with the Magnuson-Moss Warranty Act (88 Stat. 2183;
4 15 U.S.C. Sec. 47 et seq.; 15 U.S.C. Sec. 2301 et seq.).

5 (2) No new manufactured home may be sold unless the purchaser is
6 provided with a dealer's written warranty for all installation services
7 performed by the dealer.

8 (3) The warranties required by subsections (1) and (2) of this
9 section shall be valid for a minimum of one year measured from the date
10 of (~~sale~~) delivery and shall not be invalidated by resale by the
11 original purchaser to a subsequent purchaser or by the certificate of
12 ownership being eliminated or not issued as described in chapter 65.20
13 RCW. Copies of the warranties shall be given to the purchaser upon
14 signing a purchase agreement and shall include an explanation of
15 remedies available to the purchaser under state and federal law for
16 breach of warranty, the name and address of the federal department of
17 housing and urban development and the state departments of licensing
18 and labor and industries, and a brief description of the duties of
19 these agencies concerning mobile homes.

20 (4) Warranty service shall be completed within forty-five days
21 after the owner gives written notice of the defect unless there is a
22 bona fide dispute between the parties. Warranty service for a defect
23 affecting health or safety shall be completed within seventy-two hours
24 of receipt of written notice. Warranty service shall be performed on
25 site and a written work order describing labor performed and parts used
26 shall be completed and signed by the service agent and the owner. If
27 the owner's signature cannot be obtained, the reasons shall be
28 described on the work order. Work orders shall be retained by the
29 dealer or manufacturer for a period of three years.

30 (5) Before delivery of possession of the home to the purchaser, an
31 inspection shall be performed by the dealer or his or her agent and by
32 the purchaser or his or her agent which shall include a test of all
33 systems of the home to insure proper operation, unless such systems
34 test is delayed pursuant to this subsection. At the time of the
35 inspection, the purchaser shall be given copies of all documents
36 required by state or federal agencies to be supplied by the
37 manufacturer with the home which have not previously been provided as
38 required under subsection (3) of this section, and the dealer shall
39 complete any required purchaser information card and forward the card

1 to the manufacturer. A purchaser is deemed to have taken delivery of
2 the home when the contractual obligations between the purchaser and
3 seller have been met and the inspection and systems test of the home
4 have been completed subsequent to the installation of the manufactured
5 home. However, if the systems test is delayed because the site
6 preparation is incomplete, utility connections are not available, or
7 the home is not intended to be immediately occupied, delivery occurs
8 when such contractual obligations are met and the inspection is
9 completed. Any subsequent occupancy of the home shall only occur after
10 the systems test has occurred and all required utility connections have
11 been approved after inspection.

12 (6) Manufacturer and dealer advertising which states the dimensions
13 of a home shall not include the length of the draw bar assembly in a
14 listed dimension, and shall state the square footage of the actual
15 floor area.

16 **Sec. 4.** RCW 46.70.180 and 1990 c 44 s 14 are each amended to read
17 as follows:

18 Each of the following acts or practices is unlawful:

19 (1) To cause or permit to be advertised, printed, displayed,
20 published, distributed, broadcasted, televised, or disseminated in any
21 manner whatsoever, any statement or representation with regard to the
22 sale or financing of a vehicle which is false, deceptive, or
23 misleading, including but not limited to the following:

24 (a) That no down payment is required in connection with the sale of
25 a vehicle when a down payment is in fact required, or that a vehicle
26 may be purchased for a smaller down payment than is actually required;

27 (b) That a certain percentage of the sale price of a vehicle may
28 be financed when such financing is not offered in a single document
29 evidencing the entire security transaction;

30 (c) That a certain percentage is the amount of the service charge
31 to be charged for financing, without stating whether this percentage
32 charge is a monthly amount or an amount to be charged per year;

33 (d) That a new vehicle will be sold for a certain amount above or
34 below cost without computing cost as the exact amount of the factory
35 invoice on the specific vehicle to be sold;

36 (e) That a vehicle will be sold upon a monthly payment of a certain
37 amount, without including in the statement the number of payments of

1 that same amount which are required to liquidate the unpaid purchase
2 price.

3 (2) To incorporate within the terms of any purchase and sale
4 agreement any statement or representation with regard to the sale or
5 financing of a vehicle which is false, deceptive, or misleading,
6 including but not limited to terms that include as an added cost to the
7 selling price of a vehicle an amount for licensing or transfer of title
8 of that vehicle which is not actually due to the state, unless such
9 amount has in fact been paid by the dealer prior to such sale.

10 (3) To set up, promote, or aid in the promotion of a plan by which
11 vehicles are to be sold to a person for a consideration and upon
12 further consideration that the purchaser agrees to secure one or more
13 persons to participate in the plan by respectively making a similar
14 purchase and in turn agreeing to secure one or more persons likewise to
15 join in said plan, each purchaser being given the right to secure
16 money, credits, goods, or something of value, depending upon the number
17 of persons joining the plan.

18 (4) To commit, allow, or ratify any act of "bushing" which is
19 defined as follows: Taking from a prospective buyer of a vehicle a
20 written order or offer to purchase, or a contract document signed by
21 the buyer, which:

22 (a) Is subject to the dealer's, or his or her authorized
23 representative's future acceptance, and the dealer fails or refuses
24 within forty-eight hours, exclusive of Saturday, Sunday, or legal
25 holiday, and prior to any further negotiations with said buyer, to
26 deliver to the buyer either the dealer's signed acceptance or all
27 copies of the order, offer, or contract document together with any
28 initial payment or security made or given by the buyer, including but
29 not limited to money, check, promissory note, vehicle keys, a trade-in,
30 or certificate of title to a trade-in; or

31 (b) Permits the dealer to renegotiate a dollar amount specified as
32 trade-in allowance on a vehicle delivered or to be delivered by the
33 buyer as part of the purchase price, for any reason except substantial
34 physical damage or latent mechanical defect occurring before the dealer
35 took possession of the vehicle and which could not have been reasonably
36 discoverable at the time of the taking of the order, offer, or
37 contract; or

1 (c) Fails to comply with the obligation of any written warranty or
2 guarantee given by the dealer requiring the furnishing of services or
3 repairs within a reasonable time.

4 (5) To commit any offense relating to odometers, as such offenses
5 are defined in RCW 46.37.540, 46.37.550, 46.37.560, and 46.37.570. A
6 violation of this subsection is a class C felony punishable under
7 chapter 9A.20 RCW.

8 (6) For any vehicle dealer or vehicle salesman to refuse to
9 furnish, upon request of a prospective purchaser, the name and address
10 of the previous registered owner of any used vehicle offered for sale.

11 (7) To commit any other offense under RCW 46.37.423, 46.37.424, or
12 46.37.425.

13 (8) To commit any offense relating to a dealer's temporary license
14 permit, including but not limited to failure to properly complete each
15 such permit, or the issuance of more than one such permit on any one
16 vehicle.

17 (9) For a dealer, salesman, or mobile home manufacturer, having
18 taken an instrument or cash "on deposit" from a purchaser prior to the
19 delivery of the bargained-for vehicle, to commingle (~~(said)~~) the "on
20 deposit" funds with assets of the dealer, salesman, or mobile home
21 manufacturer instead of holding (~~(said)~~) the "on deposit" funds as
22 trustee in a separate trust account until the purchaser has taken
23 delivery of the bargained-for vehicle. Delivery of a manufactured home
24 shall be deemed to occur in accordance with RCW 46.70.135(5). Failure,
25 immediately upon receipt, to endorse "on deposit" instruments to such
26 a trust account, or to set aside "on deposit" cash for deposit in such
27 trust account, and failure to deposit such instruments or cash in such
28 trust account by the close of banking hours on the day following
29 receipt thereof, shall be evidence of intent to commit this unlawful
30 practice: PROVIDED, HOWEVER, That a motor vehicle dealer may keep a
31 separate trust account which equals his or her customary total customer
32 deposits for vehicles for future delivery. For purposes of this
33 section, "on deposit" funds received from a purchaser of a manufactured
34 home means those funds that a seller requires a purchaser to advance
35 before ordering the manufactured home, but does not include any loan
36 proceeds or moneys that might have been paid on an installment
37 contract.

38 (10) For a dealer or manufacturer to fail to comply with the
39 obligations of any written warranty or guarantee given by the dealer or

1 manufacturer requiring the furnishing of goods and services or repairs
2 within a reasonable period of time, or to fail to furnish to a
3 purchaser, all parts which attach to the manufactured unit including
4 but not limited to the undercarriage, and all items specified in the
5 terms of a sales agreement signed by the seller and buyer.

6 (11) Being a manufacturer, other than a motorcycle manufacturer
7 governed by chapter 46.94 RCW, to:

8 (a) Coerce or attempt to coerce any vehicle dealer to order or
9 accept delivery of any vehicle or vehicles, parts or accessories, or
10 any other commodities which have not been voluntarily ordered by the
11 vehicle dealer: PROVIDED, That recommendation, endorsement,
12 exposition, persuasion, urging, or argument are not deemed to
13 constitute coercion;

14 (b) Cancel or fail to renew the franchise or selling agreement of
15 any vehicle dealer doing business in this state without fairly
16 compensating the dealer at a fair going business value for his or her
17 capital investment which shall include but not be limited to tools,
18 equipment, and parts inventory possessed by the dealer on the day he or
19 she is notified of such cancellation or termination and which are still
20 within the dealer's possession on the day the cancellation or
21 termination is effective, if: (i) The capital investment has been
22 entered into with reasonable and prudent business judgment for the
23 purpose of fulfilling the franchise; and (ii) (~~said~~) the cancellation
24 or nonrenewal was not done in good faith. Good faith is defined as the
25 duty of each party to any franchise to act in a fair and equitable
26 manner towards each other, so as to guarantee one party freedom from
27 coercion, intimidation, or threats of coercion or intimidation from the
28 other party: PROVIDED, That recommendation, endorsement, exposition,
29 persuasion, urging, or argument are not deemed to constitute a lack of
30 good faith.

31 (c) Encourage, aid, abet, or teach a vehicle dealer to sell
32 vehicles through any false, deceptive, or misleading sales or financing
33 practices including but not limited to those practices declared
34 unlawful in this section;

35 (d) Coerce or attempt to coerce a vehicle dealer to engage in any
36 practice forbidden in this section by either threats of actual
37 cancellation or failure to renew the dealer's franchise agreement;

38 (e) Refuse to deliver any vehicle publicly advertised for immediate
39 delivery to any duly licensed vehicle dealer having a franchise or

1 contractual agreement for the retail sale of new and unused vehicles
2 sold or distributed by such manufacturer within sixty days after such
3 dealer's order has been received in writing unless caused by inability
4 to deliver because of shortage or curtailment of material, labor,
5 transportation, or utility services, or by any labor or production
6 difficulty, or by any cause beyond the reasonable control of the
7 manufacturer;

8 (f) To provide under the terms of any warranty that a purchaser of
9 any new or unused vehicle that has been sold, distributed for sale, or
10 transferred into this state for resale by the vehicle manufacturer may
11 only make any warranty claim on any item included as an integral part
12 of the vehicle against the manufacturer of that item.

13 Nothing in this section may be construed to impair the obligations
14 of a contract or to prevent a manufacturer, distributor,
15 representative, or any other person, whether or not licensed under this
16 chapter, from requiring performance of a written contract entered into
17 with any licensee hereunder, nor does the requirement of such
18 performance constitute a violation of any of the provisions of this
19 section if any such contract or the terms thereof requiring
20 performance, have been freely entered into and executed between the
21 contracting parties. This paragraph and subsection (11)(b) of this
22 section do not apply to new motor vehicle manufacturers governed by
23 chapter 46.96 RCW.

24 (12) Unlawful transfer of an ownership interest in a motor vehicle
25 as defined in RCW 19.116.050."

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29 On page 1, line 2 of the title, after "homes;" strike the remainder
30 of the title and insert "amending RCW 46.70.135 and 46.70.180; and
31 adding new sections to chapter 46.70 RCW."

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