

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 6173

Chapter 282, Laws of 1996
(partial veto)

54th Legislature
1996 Regular Session

MOTOR VEHICLE DEALERS--REGULATION

EFFECTIVE DATE: 6/6/96

Passed by the Senate March 4, 1996
YEAS 47 NAYS 0

JOEL PRITCHARD

President of the Senate

Passed by the House February 29, 1996
YEAS 96 NAYS 0

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved March 29, 1996, with the
exception of section 6, which is
vetoed.

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Marty Brown, Secretary of the
Senate of the State of Washington, do
hereby certify that the attached is
SUBSTITUTE SENATE BILL 6173 as passed
by the Senate and the House of
Representatives on the dates hereon
set forth.

MARTY BROWN

Secretary

FILED

March 29, 1996 - 5:05 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6173

AS AMENDED BY THE HOUSE

Passed Legislature - 1996 Regular Session

State of Washington 54th Legislature 1996 Regular Session

By Senate Committee on Labor, Commerce & Trade (originally sponsored by Senators Haugen and Schow)

Read first time 02/02/96.

1 AN ACT Relating to motor vehicle dealers; amending RCW 46.70.023,
2 46.70.051, 46.70.101, 46.70.120, 46.70.130, and 46.70.180; creating a
3 new section; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 46.70.023 and 1995 c 7 s 1 are each amended to read as
6 follows:

7 (1) An "established place of business" requires a permanent,
8 enclosed commercial building located within the state of Washington
9 easily accessible at all reasonable times. (~~An established place of
10 business shall have an improved display area of not less than three
11 thousand square feet in or immediately adjoining the building, or a
12 display area large enough to display six or more vehicles of the type
13 the dealer is licensed to sell, whichever area is larger.~~) The
14 business of a vehicle dealer(~~, including the display of vehicles,~~
15 may) must be lawfully carried on at an established place of business
16 in accordance with the terms of all applicable building code, zoning,
17 and other land-use regulatory ordinances. A vehicle dealer may display
18 a vehicle for sale only at its established place of business, licensed
19 subagency, or temporary subagency site, except at auction. The dealer

1 shall keep the building open to the public so that ((they)) the public
2 may contact the vehicle dealer or the dealer's salespersons at all
3 reasonable times. The books, records, and files necessary to conduct
4 the business shall be kept and maintained at that place. The
5 established place of business shall display an exterior sign with the
6 business name and nature of the business, such as auto sales,
7 permanently affixed to the land or building, with letters clearly
8 visible to the major avenue of traffic. ((In no event may)) A room or
9 rooms in a hotel, rooming house, or apartment house building or part of
10 a single or multiple-unit dwelling house may not be considered an
11 "established place of business" unless the ground floor of such a
12 dwelling is devoted principally to and occupied for commercial purposes
13 and the dealer offices are located on the ground floor. A mobile
14 office or mobile home may be used as an office if it is connected to
15 utilities and is set up in accordance with state law. A state-wide
16 trade association representing manufactured housing dealers shall be
17 permitted to use a manufactured home as an office if the office
18 complies with all other applicable building code, zoning, and other
19 land-use regulatory ordinances. This subsection does not apply to
20 auction companies that do not own vehicle inventory or sell vehicles
21 from an auction yard.

22 (2) An auction company shall have office facilities within the
23 state. The books, records, and files necessary to conduct the business
24 shall be maintained at the office facilities. All storage facilities
25 for inventory shall be listed with the department, and shall meet local
26 zoning and land use ordinances. An auction company shall maintain a
27 telecommunications system.

28 (3) Auction companies shall post their vehicle dealer license at
29 each auction where vehicles are offered, and shall provide the
30 department with the address of the auction at least three days before
31 the auction.

32 (4) If a dealer maintains a place of business at more than one
33 location or under more than one name in this state, he or she shall
34 designate one location as the principal place of business of the firm,
35 one name as the principal name of the firm, and all other locations or
36 names as subagencies. A subagency license is required for each and
37 every subagency: PROVIDED, That the department may grant an exception
38 to the subagency requirement in the specific instance where a licensed
39 dealer is unable to locate their used vehicle sales facilities adjacent

1 to or at the established place of business. This exception shall be
2 granted and defined under the promulgation of rules consistent with the
3 Administrative Procedure Act.

4 (5) All vehicle dealers shall maintain ownership or leasehold
5 throughout the license year of the real property from which they do
6 business. The dealer shall provide the department with evidence of
7 ownership or leasehold whenever the ownership changes or the lease is
8 terminated.

9 (6) A subagency shall comply with all requirements of an
10 established place of business, except that subagency records may be
11 kept at the principal place of business designated by the dealer.
12 Auction companies shall comply with the requirements in subsection (2)
13 of this section.

14 (7) A temporary subagency shall meet all local zoning and building
15 codes for the type of merchandising being conducted. The dealer
16 license certificate shall be posted at the location. No other
17 requirements of an established place of business apply to a temporary
18 subagency. Auction companies are not required to obtain a temporary
19 subagency license.

20 (8) A wholesale vehicle dealer shall have office facilities in a
21 commercial building within this state, and all storage facilities for
22 inventory shall be listed with the department, and shall meet local
23 zoning and land use ordinances. A wholesale vehicle dealer shall
24 maintain a telecommunications system. An exterior sign visible from
25 the nearest street shall identify the business name and the nature of
26 business. A wholesale dealer need not maintain a display area as
27 required in this section. When two or more vehicle dealer businesses
28 share a location, all records, office facilities, and inventory, if
29 any, must be physically segregated and clearly identified.

30 (9) A retail vehicle dealer shall be open during normal business
31 hours, maintain office and display facilities in a commercially zoned
32 location or in a location complying with all applicable building and
33 land use ordinances, and maintain a business telephone listing in the
34 local directory. When two or more vehicle dealer businesses share a
35 location, all records, office facilities, and inventory shall be
36 physically segregated and clearly identified.

37 (10) A listing dealer need not have a display area if the dealer
38 does not physically maintain any vehicles for display.

1 (11) A subagency license is not required for a mobile home dealer
2 to display an on-site display model, a consigned mobile home not
3 relocated from its site, or a repossessed mobile home if sales are
4 handled from a principal place of business or subagency. A mobile home
5 dealer shall identify on-site display models, repossessed mobile homes,
6 and those consigned at their sites with a sign that includes the
7 dealer's name and telephone number.

8 (12) Every vehicle dealer shall advise the department of the
9 location of each and every place of business of the firm and the name
10 or names under which the firm is doing business at such location or
11 locations. If any name or location is changed, the dealer shall notify
12 the department of such change within ten days. The license issued by
13 the department shall reflect the name and location of the firm and
14 shall be posted in a conspicuous place at that location by the dealer.

15 (13) A vehicle dealer's license shall upon the death or incapacity
16 of an individual vehicle dealer authorize the personal representative
17 of such dealer, subject to payment of license fees, to continue the
18 business for a period of six months from the date of the death or
19 incapacity.

20 **Sec. 2.** RCW 46.70.051 and 1993 c 307 s 7 are each amended to read
21 as follows:

22 (1) After the application has been filed, the fee paid, and bond
23 posted, if required the department shall, if no denial order is in
24 effect and no proceeding is pending under RCW 46.70.101, issue the
25 appropriate license, which license, in the case of a vehicle dealer,
26 shall designate the classification of the dealer. Nothing prohibits a
27 vehicle dealer from obtaining licenses for more than one
28 classification, and nothing prevents any vehicle dealer from dealing in
29 other classes of vehicles on an isolated basis.

30 (2) An auction company licensed under chapter 18.11 RCW may sell at
31 auction all classifications of vehicles under a motor vehicle dealer's
32 license issued under this chapter including motor vehicles,
33 miscellaneous type vehicles, and mobile homes and travel trailers.

34 (3) At the time the department issues a vehicle dealer license, the
35 department shall provide to the dealer a current, up-to-date vehicle
36 dealer manual setting forth the various statutes and rules applicable
37 to vehicle dealers. In addition, at the time any such license is

1 renewed under RCW 46.70.083, the department shall provide the dealer
2 with any updates or current revisions to the vehicle dealer manual.

3 **Sec. 3.** RCW 46.70.101 and 1991 c 140 s 3 are each amended to read
4 as follows:

5 The director may by order deny, suspend, or revoke the license of
6 any vehicle dealer or vehicle manufacturer or, in lieu thereof or in
7 addition thereto, may by order assess monetary penalties of a civil
8 nature not to exceed one thousand dollars per violation, if the
9 director finds that the order is in the public interest and that the
10 applicant or licensee:

11 (1) In the case of a vehicle dealer:

12 (a) The applicant or licensee, or any partner, officer, director,
13 owner of ten percent or more of the assets of the firm, or managing
14 employee:

15 (i) Was the holder of a license issued pursuant to this chapter,
16 which was revoked for cause and never reissued by the department, or
17 which license was suspended for cause and the terms of the suspension
18 have not been fulfilled or which license was assessed a civil penalty
19 and the assessed amount has not been paid;

20 (ii) Has been adjudged guilty of a crime which directly relates to
21 the business of a vehicle dealer and the time elapsed since the
22 adjudication is less than ten years, or suffering any judgment within
23 the preceding five years in any civil action involving fraud,
24 misrepresentation, or conversion. For the purposes of this section,
25 adjudged guilty shall mean in addition to a final conviction in either
26 a state or municipal court, an unvacated forfeiture of bail or
27 collateral deposited to secure a defendant's appearance in court, the
28 payment of a fine, a plea of guilty, or a finding of guilt regardless
29 of whether the sentence is deferred or the penalty is suspended;

30 (iii) Has knowingly or with reason to know made a false statement
31 of a material fact in his application for license or any data attached
32 thereto, or in any matter under investigation by the department;

33 (iv) Has knowingly, or with reason to know, provided the department
34 with false information relating to the number of vehicle sales
35 transacted during the past one year in order to obtain a vehicle dealer
36 license plate;

37 (v) Does not have an established place of business as required in
38 this chapter;

1 (vi) Refuses to allow representatives or agents of the department
2 to inspect during normal business hours all books, records, and files
3 maintained within this state;

4 (vii) Sells, exchanges, offers, brokers, auctions, solicits, or
5 advertises a new or current model vehicle to which a factory new
6 vehicle warranty attaches and fails to have a valid, written service
7 agreement as required by this chapter, or having such agreement refuses
8 to honor the terms of such agreement within a reasonable time or
9 repudiates the same;

10 (viii) Is insolvent, either in the sense that their liabilities
11 exceed their assets, or in the sense that they cannot meet their
12 obligations as they mature;

13 (ix) Fails to pay any civil monetary penalty assessed by the
14 director pursuant to this section within ten days after such assessment
15 becomes final;

16 (x) Fails to notify the department of bankruptcy proceedings in the
17 manner required by RCW 46.70.183;

18 (xi) Knowingly, or with reason to know, allows a salesperson
19 employed by the dealer, or acting as their agent, to commit any of the
20 prohibited practices set forth in subsection (1)(a) of this section and
21 RCW 46.70.180.

22 (b) The applicant or licensee, or any partner, officer, director,
23 owner of ten percent of the assets of the firm, or any employee or
24 agent:

25 (i) Has failed to comply with the applicable provisions of chapter
26 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted
27 thereunder;

28 (ii) Has defrauded or attempted to defraud the state, or a
29 political subdivision thereof of any taxes or fees in connection with
30 the sale or transfer of a vehicle;

31 (iii) Has forged the signature of the registered or legal owner on
32 a certificate of title;

33 (iv) Has purchased, sold, disposed of, or has in his or her
34 possession any vehicle which he or she knows or has reason to know has
35 been stolen or appropriated without the consent of the owner;

36 (v) Has willfully failed to deliver to a purchaser a certificate of
37 ownership to a vehicle which he has sold;

38 (vi) Has committed any act in violation of RCW 46.70.090 relating
39 to vehicle dealer license plates or manufacturer license plates;

1 (vii) Has committed any act in violation of RCW 46.70.180 relating
2 to unlawful acts and practices;

3 (viii) Has engaged in practices inimical to the health or safety of
4 the citizens of the state of Washington including but not limited to
5 failure to comply with standards set by the state of Washington or the
6 federal government pertaining to the construction or safety of
7 vehicles;

8 (ix) Has aided or assisted an unlicensed dealer or salesperson in
9 unlawful activity through active or passive participation in sales,
10 allowing use of facilities, dealer license number, or by any other
11 means;

12 (x) Converts or appropriates, whether temporarily or permanently,
13 property or funds belonging to a customer, dealer, or manufacturer,
14 without the consent of the owner of the property or funds; or

15 (xi) Has sold any vehicle with actual knowledge that:

16 (A) It has ("REBUILT") any of the following brands on the title:
17 "SALVAGE/REBUILT," "JUNK," or "DESTROYED"; or

18 (B) It has been declared totaled out by an insurance carrier and
19 then rebuilt; or

20 (C) The vehicle title contains the specific comment that the
21 vehicle is "rebuilt";

22 without clearly disclosing that (~~fact~~) brand or comment in writing.

23 (c) The licensee or any partner, officer, director, or owner of ten
24 percent or more of the assets of the firm holds or has held any such
25 position in any other vehicle dealership licensed pursuant to this
26 chapter which is subject to final proceedings under this section.

27 (2) In the case of a manufacturer, or any partner, officer,
28 director, or majority shareholder:

29 (a) Was or is the holder of a license issued pursuant to this
30 chapter which was revoked for cause and never reissued by the
31 department, or which license was suspended for cause and the terms of
32 the suspension have not been fulfilled, or which license was assessed
33 a civil penalty and the assessed amount has not been paid;

34 (b) Has knowingly or with reason to know, made a false statement of
35 a material fact in his application for license, or any data attached
36 thereto, or in any matter under investigation by the department;

37 (c) Has failed to comply with the applicable provisions of chapter
38 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted
39 thereunder;

1 (d) Has defrauded or attempted to defraud the state or a political
2 subdivision thereof, of any taxes or fees in connection with the sale
3 or transfer of a vehicle;

4 (e) Has purchased, sold, disposed of, or has in his possession, any
5 vehicle which he knows or has reason to know has been stolen or
6 appropriated without the consent of the owner;

7 (f) Has committed any act in violation of RCW 46.70.090 relating to
8 vehicle dealer license plates and manufacturer license plates;

9 (g) Has committed any act in violation of RCW 46.70.180 relating to
10 unlawful acts and practices;

11 (h) Sells or distributes in this state or transfers into this state
12 for resale, any new or unused vehicle to which a warranty attaches or
13 has attached and refuses to honor the terms of such warranty within a
14 reasonable time or repudiates the same;

15 (i) Fails to maintain one or more resident employees or agents to
16 provide service or repairs to vehicles located within the state of
17 Washington only under the terms of any warranty attached to new or
18 unused vehicles manufactured and which are or have been sold or
19 distributed in this state or transferred into this state for resale
20 unless such manufacturer requires warranty service to be performed by
21 all of its dealers pursuant to a current service agreement on file with
22 the department;

23 (j) Fails to reimburse within a reasonable time any vehicle dealer
24 within the state of Washington who in good faith incurs reasonable
25 obligations in giving effect to warranties that attach or have attached
26 to any new or unused vehicle sold or distributed in this state or
27 transferred into this state for resale by any such manufacturer;

28 (k) Engaged in practices inimical to the health and safety of the
29 citizens of the state of Washington including but not limited to
30 failure to comply with standards set by the state of Washington or the
31 federal government pertaining to the construction and safety of
32 vehicles;

33 (l) Is insolvent either in the sense that his or her liabilities
34 exceed his or her assets or in the sense that he or she cannot meet his
35 or her obligations as they mature;

36 (m) Fails to notify the department of bankruptcy proceedings in the
37 manner required by RCW 46.70.183.

1 **Sec. 4.** RCW 46.70.120 and 1990 c 238 s 7 are each amended to read
2 as follows:

3 A dealer shall complete and maintain for a period of at least five
4 years a record of the purchase and sale of all vehicles purchased or
5 sold by him. The records shall consist of:

6 (1) The license and title numbers of the state in which the last
7 license was issued;

8 (2) A description of the vehicle;

9 (3) The name and address of the person from whom purchased;

10 (4) The name of the legal owner, if any;

11 (5) The name and address of the purchaser;

12 (6) If purchased from a dealer, the name, business address, dealer
13 license number, and resale tax number of the dealer;

14 (7) The price paid for the vehicle and the method of payment;

15 (8) The vehicle odometer disclosure statement given by the seller
16 to the dealer, and the vehicle odometer disclosure statement given by
17 the dealer to the purchaser;

18 (9) The written agreement to allow a dealer to sell between the
19 dealer and the consignor, or the listing dealer and the seller;

20 (10) Trust account records of receipts, deposits, and withdrawals;

21 (11) All sale documents, which shall show the full name of dealer
22 employees involved in the sale; and

23 (12) Any additional information the department may require.
24 However, the department may not require a dealer to collect or retain
25 the hardback copy of a temporary license permit after the permanent
26 license plates for a vehicle have been provided to the purchaser, if
27 the dealer maintains some other copy of the temporary license permit
28 together with a log of the permits issued.

29 Such records shall be maintained separate (~~and apart~~) from all
30 other business records of the dealer (~~and shall at all times~~).
31 Records older than two years may be kept at a location other than the
32 dealer's place of business if those records are made available in hard
33 copy for inspection within three calendar days, exclusive of Saturday,
34 Sunday, or a legal holiday, after a request by the director or the
35 director's authorized agent. Records kept at the vehicle dealer's
36 place of business must be available for inspection by the director or
37 (~~his duly~~) the director's authorized agent during normal business
38 hours.

1 Dealers may maintain their recordkeeping and filing systems in
2 accordance with their own particular business needs and practices.
3 Nothing in this chapter requires dealers to maintain their records in
4 any particular order or manner, as long as the records identified in
5 this section are maintained in the dealership's recordkeeping system.

6 **Sec. 5.** RCW 46.70.130 and 1973 1st ex.s. c 132 s 16 are each
7 amended to read as follows:

8 (1) Before the execution of a contract or chattel mortgage or the
9 consummation of the sale of any vehicle, the seller must furnish the
10 buyer an itemization in writing signed by the seller separately
11 disclosing to the buyer the finance charge, insurance costs, taxes, and
12 other charges which are paid or to be paid by the buyer.

13 (2) Notwithstanding subsection (1) of this section, an itemization
14 of the various license and title fees paid or to be paid by the buyer,
15 which itemization must be the same as that disclosed on the
16 registration/application for title document issued by the department,
17 may be required only on the title application at the time the
18 application is submitted for title transfer. A vehicle dealer may not
19 be required to separately or individually itemize the license and title
20 fees on any other document, including but not limited to the purchase
21 order and lease agreement. No fee itemization may be required on the
22 temporary permit.

23 ***Sec. 6.** RCW 46.70.180 and 1995 c 256 s 26 are each amended to
24 read as follows:

25 *Each of the following acts or practices is unlawful:*

26 (1) *To cause or permit to be advertised, printed, displayed,*
27 *published, distributed, broadcasted, televised, or disseminated in any*
28 *manner whatsoever, any statement or representation with regard to the*
29 *sale or financing of a vehicle which is false, deceptive, or*
30 *misleading, including but not limited to the following:*

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

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

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

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

7 (e) That a vehicle will be sold upon a monthly payment of a certain
8 amount, without including in the statement the number of payments of
9 that same amount which are required to liquidate the unpaid purchase
10 price.

11 (2) To incorporate within the terms of any purchase and sale
12 agreement any statement or representation with regard to the sale or
13 financing of a vehicle which is false, deceptive, or misleading,
14 including but not limited to terms that include as an added cost to the
15 selling price of a vehicle an amount for licensing or transfer of title
16 of that vehicle which is not actually due to the state, unless such
17 amount has in fact been paid by the dealer prior to such sale.
18 However, expenses or fees charged by a dealer that are necessary or
19 required to be paid by a dealer to a third party in order to obtain a
20 lien release or a vehicle identification number inspection or
21 verification, or to otherwise clear title to the vehicle, or in order
22 to license or transfer title to a vehicle, do not violate this section
23 if such expenses or fees are disclosed or itemized on the purchase
24 order.

25 (3) To set up, promote, or aid in the promotion of a plan by which
26 vehicles are to be sold to a person for a consideration and upon
27 further consideration that the purchaser agrees to secure one or more
28 persons to participate in the plan by respectively making a similar
29 purchase and in turn agreeing to secure one or more persons likewise to
30 join in said plan, each purchaser being given the right to secure
31 money, credits, goods, or something of value, depending upon the number
32 of persons joining the plan.

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

37 (a) Is subject to the dealer's, or his or her authorized
38 representative's future acceptance, and the dealer fails or refuses
39 within (~~forty-eight hours~~) three calendar days, exclusive of

1 Saturday, Sunday, or a legal holiday, and prior to any further
2 negotiations with said buyer, either: (i) To deliver to the buyer
3 ((either)) the dealer's signed acceptance, or ((all copies of)) (ii) to
4 void the order, offer, or contract document ((together with)) and
5 tender the return of any initial payment or security made or given by
6 the buyer, including but not limited to money, check, promissory note,
7 vehicle keys, a trade-in, or certificate of title to a trade-in; or

8 (b) Permits the dealer to renegotiate a dollar amount specified as
9 trade-in allowance on a vehicle delivered or to be delivered by the
10 buyer as part of the purchase price, for any reason except:

11 (i) Failure to disclose that the vehicle's certificate of ownership
12 has ((been branded for any reason, including, but not limited to,
13 status as a rebuilt vehicle as provided in RCW 46.12.050 and 46.12.075;
14 and)) any of the following brands: "SALVAGE/REBUILT" or "JUNK" or
15 "DESTROYED," or has been declared totaled out by an insurance carrier
16 and then rebuilt, or that the vehicle title contains the specific
17 comment that the vehicle is "rebuilt"; or

18 (ii) Substantial physical damage or latent mechanical defect
19 occurring before the dealer took possession of the vehicle and which
20 could not have been reasonably discoverable at the time of the taking
21 of the order, offer, or contract; or

22 (iii) Excessive additional miles or a discrepancy in the mileage.
23 "Excessive additional miles" means the addition of five hundred miles
24 or more, as reflected on the vehicle's odometer, between the time the
25 vehicle was first valued by the dealer for purposes of determining its
26 trade-in value and the time of actual delivery of the vehicle to the
27 dealer. "A discrepancy in the mileage" means: (A) A discrepancy
28 between the mileage reflected on the vehicle's odometer and the stated
29 mileage on the signed odometer statement; or (B) a discrepancy between
30 the mileage stated on the signed odometer statement and the actual
31 mileage on the vehicle; or

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

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

1 (6) For any vehicle dealer or vehicle ((salesman)) salesperson to
2 refuse to furnish, upon request of a prospective purchaser, ((the name
3 and address of the previous registered owner of any used vehicle
4 offered for sale)) for vehicles previously registered to a business or
5 governmental entity, the name and address of such business or
6 governmental entity.

7 (7) To commit any other offense under RCW 46.37.423, 46.37.424, or
8 46.37.425.

9 (8) To commit any offense relating to a dealer's temporary license
10 permit, including but not limited to failure to properly complete each
11 such permit, or the issuance of more than one such permit on any one
12 vehicle. However, a dealer shall be entitled to issue a second
13 temporary permit on a vehicle if the following conditions are met:

14 (a) The lienholder fails to deliver the vehicle title to the dealer
15 within the required time period;

16 (b) The dealer has satisfied the lien; and

17 (c) The dealer has proof that payment of the lien was made within
18 two calendar days, exclusive of Saturday, Sunday, or a legal holiday,
19 after the sales contract has been executed by all parties and all
20 conditions and contingencies in the sales contract have been met or
21 otherwise satisfied.

22 (9) For a dealer, salesman, or mobile home manufacturer, having
23 taken an instrument or cash "on deposit" from a purchaser prior to the
24 delivery of the bargained-for vehicle, to commingle the "on deposit"
25 funds with assets of the dealer, salesman, or mobile home manufacturer
26 instead of holding the "on deposit" funds as trustee in a separate
27 trust account until the purchaser has taken delivery of the bargained-
28 for vehicle. Delivery of a manufactured home shall be deemed to occur
29 in accordance with RCW 46.70.135(5). Failure, immediately upon
30 receipt, to endorse "on deposit" instruments to such a trust account,
31 or to set aside "on deposit" cash for deposit in such trust account,
32 and failure to deposit such instruments or cash in such trust account
33 by the close of banking hours on the day following receipt thereof,
34 shall be evidence of intent to commit this unlawful practice:
35 PROVIDED, HOWEVER, That a motor vehicle dealer may keep a separate
36 trust account which equals his or her customary total customer deposits
37 for vehicles for future delivery. For purposes of this section, "on
38 deposit" funds received from a purchaser of a manufactured home means
39 those funds that a seller requires a purchaser to advance before

1 ordering the manufactured home, but does not include any loan proceeds
2 or moneys that might have been paid on an installment contract.

3 (10) For a dealer or manufacturer to fail to comply with the
4 obligations of any written warranty or guarantee given by the dealer or
5 manufacturer requiring the furnishing of goods and services or repairs
6 within a reasonable period of time, or to fail to furnish to a
7 purchaser, all parts which attach to the manufactured unit including
8 but not limited to the undercarriage, and all items specified in the
9 terms of a sales agreement signed by the seller and buyer.

10 (11) For a vehicle dealer to pay to or receive from any person,
11 firm, partnership, association, or corporation acting, either directly
12 or through a subsidiary, as a buyer's agent for consumers, any
13 compensation, fee, gratuity, or reward in connection with the purchase
14 or sale of a new motor vehicle.

15 (12) For a buyer's agent acting directly or through a subsidiary to
16 pay to or to receive from any motor vehicle dealer any compensation,
17 fee, gratuity, or reward in connection with the purchase or sale of a
18 new motor vehicle.

19 (13) For a buyer's agent to arrange for or to negotiate the
20 purchase, or both, of a new motor vehicle through an out-of-state
21 dealer without disclosing in writing to the customer that the new
22 vehicle would not be subject to chapter 19.118 RCW.

23 (14) Being a manufacturer, other than a motorcycle manufacturer
24 governed by chapter 46.94 RCW, to:

25 (a) Coerce or attempt to coerce any vehicle dealer to order or
26 accept delivery of any vehicle or vehicles, parts or accessories, or
27 any other commodities which have not been voluntarily ordered by the
28 vehicle dealer: PROVIDED, That recommendation, endorsement,
29 exposition, persuasion, urging, or argument are not deemed to
30 constitute coercion;

31 (b) Cancel or fail to renew the franchise or selling agreement of
32 any vehicle dealer doing business in this state without fairly
33 compensating the dealer at a fair going business value for his or her
34 capital investment which shall include but not be limited to tools,
35 equipment, and parts inventory possessed by the dealer on the day he or
36 she is notified of such cancellation or termination and which are still
37 within the dealer's possession on the day the cancellation or
38 termination is effective, if: (i) The capital investment has been
39 entered into with reasonable and prudent business judgment for the

1 purpose of fulfilling the franchise; and (ii) the cancellation or
2 nonrenewal was not done in good faith. Good faith is defined as the
3 duty of each party to any franchise to act in a fair and equitable
4 manner towards each other, so as to guarantee one party freedom from
5 coercion, intimidation, or threats of coercion or intimidation from the
6 other party: PROVIDED, That recommendation, endorsement, exposition,
7 persuasion, urging, or argument are not deemed to constitute a lack of
8 good faith.

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

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

16 (e) Refuse to deliver any vehicle publicly advertised for immediate
17 delivery to any duly licensed vehicle dealer having a franchise or
18 contractual agreement for the retail sale of new and unused vehicles
19 sold or distributed by such manufacturer within sixty days after such
20 dealer's order has been received in writing unless caused by inability
21 to deliver because of shortage or curtailment of material, labor,
22 transportation, or utility services, or by any labor or production
23 difficulty, or by any cause beyond the reasonable control of the
24 manufacturer;

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

30 Nothing in this section may be construed to impair the obligations
31 of a contract or to prevent a manufacturer, distributor,
32 representative, or any other person, whether or not licensed under this
33 chapter, from requiring performance of a written contract entered into
34 with any licensee hereunder, nor does the requirement of such
35 performance constitute a violation of any of the provisions of this
36 section if any such contract or the terms thereof requiring
37 performance, have been freely entered into and executed between the
38 contracting parties. This paragraph and subsection (14)(b) of this

1 *section do not apply to new motor vehicle manufacturers governed by*
2 *chapter 46.96 RCW.*

3 *(15) Unlawful transfer of an ownership interest in a motor vehicle*
4 *as defined in RCW 19.116.050.*

5 **Sec. 6 was vetoed. See message at end of chapter.*

6 NEW SECTION. **Sec. 7.** The department of licensing, in consultation
7 with interested parties, shall develop and provide to the legislative
8 transportation committee by December 1, 1996, recommendations on
9 changes to comments and brands on vehicle certificates of ownership and
10 registration. The recommendations shall address, but are not limited
11 to, whether references to rebuilt, former taxi, former for hire, former
12 rental, and former government vehicles should be portrayed as comments
13 or title brands, and how the "nonstandard" brand can be replaced with
14 a brand or brands that provide more specific information.

Passed the Senate March 4, 1996.

Passed the House February 29, 1996.

Approved by the Governor March 29, 1996, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State March 29, 1996.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to section 6,
3 Substitute Senate Bill No. 6173 entitled:

4 "AN ACT Relating to motor vehicle dealers;"

5 Substitute Senate Bill No. 6173 makes a number of changes affecting
6 motor vehicle dealers.

7 Section 6 of Substitute Senate Bill No. 6173 allows a vehicle
8 dealer, in certain circumstances, to charge expenses or fees to
9 purchasers of used cars previously taken as a trade-in or of new cars
10 in which financing is arranged by the dealer. These costs should not be
11 passed on to the consumer separate from the agreed price of the car but
12 rather should simply be treated as another cost of doing business that
13 dealers must consider when determining a price.

14 For this reason, I have vetoed section 6 of Substitute Senate Bill
15 No. 6173.

16 With the exception of section 6, Substitute Senate Bill No. 6173 is
17 approved."