

HOUSE BILL REPORT

SSB 5407

As Passed House:

April 11, 2003

Title: An act relating to franchise agreements between motorsports vehicle dealers and manufacturers.

Brief Description: Regulating motorsports vehicle dealer franchises.

Sponsors: By Senate Committee on Commerce & Trade (originally sponsored by Senators Horn, Prentice, Honeyford and Benton).

Brief History:

Committee Activity:

Commerce & Labor: 3/26/03 [DP].

Floor Activity:

Passed House: 4/11/03, 88-0.

Brief Summary of Substitute Bill

- Defines the relationship between manufacturers and dealers of motorsports vehicles as to the ownership and transfer of dealerships, franchise disputes, and unfair business practices.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 8 members: Representatives Conway, Chair; Wood, Vice Chair; Chandler, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Crouse, Hudgins, Kenney and McCoy.

Staff: Matt Cooper (786-7106).

Background:

The Motorcycle Dealers' Franchise Act (Act) regulates the franchise relationship between motorcycle manufacturers and motorcycle dealers. State law and franchise agreements outline the responsibilities of each party.

The Act prevents manufacturers from owning a franchise and outlines when

manufacturers may terminate a dealer's franchise. Manufacturers may not discriminate between dealers.

Although not specified in the Act, motorcycle manufacturers' franchise agreements generally require manufacturer approval of any prospective buyer of a dealership. Franchise agreements may also require dealers who perform warranty work to submit claims to manufacturers for reimbursement of the cost of the work.

Summary of Bill:

The Motorcycle Dealers' Franchise Act is repealed and replaced by an act regulating the relationship between motorsports vehicle manufacturers and motorsports vehicle dealers. *Motorsports vehicles* are defined as motorcycles, mopeds, snowmobiles, personal watercraft, and four-wheel all-terrain vehicles.

Manufacturers or dealers involved in a dispute may file a complaint with the Department of Licensing (Department). Upon receipt of a complaint, the Department will assign an administrative law judge to hear and decide the dispute. The Department will set the fee for filing a complaint to cover the cost of the hearing. The Department may also make rules to add vehicles to the definition of motorsports vehicle.

This act defines the franchise relationship between the manufacturer and the dealer. Motorsports vehicle manufacturers may not:

- Establish new dealerships or relocate existing dealerships to market areas already occupied by a dealer without good cause;
- require a dealer to relocate or alter the dealer's existing business location;
- cancel a franchise agreement without good cause;
- own a dealership for more than two years unless the manufacturer is assisting a new owner or a person in a dealer ownership diversity program to establish a dealership, and that person will make a substantial capital investment in the dealership;
- discriminate between dealerships in the pricing and delivery of new motorsports vehicles and accessories;
- compete with dealerships in the sale of motorsports vehicles and accessories; or
- own a motorsports vehicle maintenance or repair facility.

This act also establishes unfair trade practices in the manufacturer-dealer relationship. Motorsports manufacturers may not:

- Use confidential information from a dealer to compete against that dealer;
- require a dealer to order or accept delivery of a motorsports vehicle or accessory;
- fail to indemnify and hold a dealership harmless;
- require dealers to transfer installment sales contracts to a manufacturer;
- require franchise agreements to contain a right of first refusal;
- raise prices without notice;

- withhold consent to transfer any interest in a dealership; or
- prevent a dealer from restructuring the capital or business structure of a dealership.

Manufacturers and dealers must agree on the dealer's obligation to perform warranty work and the process for submitting warranty claims. Manufacturers must provide dealers with a schedule of reimbursement for warranty work and must approve or deny claims for reimbursement for warranty work within 30 days of submission. Warranty claims must be paid within 30 days of approval.

Dealers may transfer ownership of a dealership to a family member, a person experienced in the motorsports industry, or a person new to the motorsports industry who employs an individual with experience in the industry.

Appropriation: None.

Fiscal Note: Requested on March 25, 2003.

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

Testimony For: This bill will establish a manufacturer-dealer relationship for the motorsports industry similar to that in the auto industry. The dealers and the manufactures agree that the current law is outdated and have negotiated this bill to update the law to reflect the changes in the industry.

The types of vehicles covered by this bill reflect what dealers are selling. The issue of exclusive market area is addressed to give dealers more security in their markets. The bill also provides a right of survivorship so that dealers may pass on the family business.

Most motorsports vehicle dealers are very small businesses. The changes that this bill makes will be good for the dealers and add stability to the industry for the manufacturers.

Testimony Against: None.

Testified: Senator Horn, prime sponsor; John Woodring and Jim Boltz, Washington State Motorsports Dealer Association; and Myke Gable, Department of Licensing.