

HOUSE BILL REPORT

ESHB 1664

As Passed House:

March 5, 2009

Title: An act relating to termination, cancellation, or nonrenewal of motorsports manufacturer and dealer franchise agreements.

Brief Description: Addressing the termination, cancellation, or nonrenewal of motorsports manufacturer and dealer franchise agreements.

Sponsors: House Committee on Commerce & Labor (originally sponsored by Representatives Wood, Conway, Hinkle and Ormsby).

Brief History:

Committee Activity:

Commerce & Labor: 2/6/09, 2/18/09 [DPS].

Floor Activity

Passed House: 3/5/09, 97-0.

Brief Summary of Engrossed Substitute Bill

- Requires a motorsports manufacturer to pay specified sums to a motorsports dealer upon the termination, cancellation, or nonrenewal of a franchise.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Crouse, Green, Moeller and Williams.

Staff: Alison Hellberg (786-7152)

Background:

Many aspects of the franchise relationship between motorsports vehicle manufacturers and motorsports vehicle dealers are regulated by the Department of Licensing (Department). "Motorsports vehicles" are defined as motorcycles, mopeds, snowmobiles, personal watercraft, and four-wheel all-terrain vehicles.

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.

Prior to the termination, cancellation, or nonrenewal of a franchise, a manufacturer must give written notice to the Department and the dealer. The notice must state the intention to terminate, cancel, or not renew the franchise; the reasons for the termination, cancellation, or nonrenewal; and the effective date of the termination, cancellation, or nonrenewal. The notice must be given within a specified time period.

If the manufacturer terminates, cancels, or fails to renew a franchise, the manufacturer must pay the dealer:

- dealer cost of unused, undamaged, and unsold new motorsports vehicles;
- dealer cost for all unused, undamaged, and unsold supplies, parts, and accessories in original packaging;
- dealer cost for all unused, undamaged, and unsold inventory;
- the fair market value of each undamaged sign owned by the dealer that bears a common name, trade name, or trademark of the manufacturer; and
- the fair market value of all special tools owned or leased by the dealer.

The manufacturer must pay the specified sums within 90 days after the tender of the property, if the dealer has clear title to the property and is in a position to convey that title to the manufacturer. To the extent the franchise agreement provides for payment or reimbursement to the dealer in excess of that specified in this section, the provisions of the franchise agreement will control.

Summary of Engrossed Substitute Bill:

The manufacturer is required to pay specified sums to the dealer upon the termination, cancellation, or nonrenewal of a franchise regardless of who initiated it.

The manufacturer must pay the dealer the specified sums within 90 days after the termination, cancellation, or nonrenewal of the franchise if the dealer has clear title to the property, or can provide clear title to the property upon payment by the manufacturer, and is in a position to convey that title to the manufacturer.

Manufacturers are only required to repurchase motorsports vehicles that were acquired by the dealer in the ordinary course of business.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) It is difficult to determine what to do with unsold new vehicles when a franchise is terminated by the dealer. The dealer is left to sell the vehicles with no franchise and

usually has to sell them at fire sale prices. The manufacturer is in a better position to sell the inventory. The existing system hurts other dealerships by undercutting their prices and damages the manufacturer's brand. This bill makes a lot of sense given the current economic situation.

Dealers are canceling orders because they do not have this assurance. They are also afraid to make new orders. This is affecting the dealers' ability to retain and hire new employees.

(Opposed) None.

Persons Testifying: Representative Wood, prime sponsor; and James Boltz, Washington State Motorsports Dealers Association.

Persons Signed In To Testify But Not Testifying: None.