

SENATE BILL REPORT

ESSB 5595

As Passed Senate, March 5, 2009

Title: An act relating to the termination, cancellation, or nonrenewal of franchises between new motor vehicle dealers and manufacturers.

Brief Description: Addressing the termination, cancellation, or nonrenewal of franchises between new motor vehicle dealers and manufacturers.

Sponsors: Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Keiser, King, Marr, Honeyford and Kohl-Welles).

Brief History:

Committee Activity: Labor, Commerce & Consumer Protection: 2/05/09, 2/23/09 [DPS].
Passed Senate: 3/05/09, 46-0.

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Majority Report: That Substitute Senate Bill No. 5595 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Holmquist, Ranking Minority Member; Franklin, Honeyford, King and Kline.

Staff: Alison Mendiola (786-7483)

Background: Upon the termination, cancellation, or nonrenewal of a franchise by a manufacturer, the manufacturer is to pay a number of costs associated with the dealer including:

- dealer cost of new unsold vehicles in the dealer's inventory, acquired from the manufacturer, or another new dealers of the same line make, within the previous 12 months;
- dealer costs of unsold supplies, parts, and accessories;
- dealers costs of all unsold inventory, including vehicles, parts, or accessories, if the purchase was required by the manufacturer;
- the fair market value of signs, if recommended by the manufacturer;
- the fair market value of all equipment, furnishings, and special tools acquired from the manufacturer; and
- the cost of transporting, handling, and packing all such goods.

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.

If a franchise agreement provide for payment to the dealer in excess of what is provided for in statute, the provisions of the franchise agreement control.

The manufacturer is to pay any money owed to the dealer 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 the title to the manufacturer.

Summary of Engrossed Substitute Bill: The costs that manufacturers are to pay to dealers is broadened to include the termination, cancellation, or nonrenewal of a franchise by either party to the agreement.

A manufacturer only has a responsibility to repurchase vehicles that were purchased as part of the ordinary business operations of a dealer and is not required to repurchase vehicles that were dumped on a dealer terminating a franchise by other dealers immediately prior to the termination.

A manufacturer is not required to buy back inventory that is sold to a purchasing dealer as part of the sale of a franchise. The manufacturer can enter into an agreement that allows the purchasing dealer to acquire all or part of the inventory from the manufacturer that would otherwise be repurchased from the selling dealer. The manufacturer is under no obligation to repurchase inventory that was acquired by the purchasing dealer.

The manufacturer is to pay any money owed to the dealer 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.

These provisions do not apply to motor homes. In the case of motor homes, a manufacturer only has a duty to pay certain costs to a dealer if the manufacturer initiates the termination, cancellation, or nonrenewal of a franchise.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony: PRO: Manufacturers are getting assistance from the federal government but dealers aren't and they are hurting too. Dealers are required to buy from the manufacturer and currently if the dealer terminates the contract, the dealer sells off the inventory at a loss. Dealers provide local family wage jobs and dealers need a safety net.

CON: Manufacturers would like to propose to amendments that address other dealers dumping inventory on the closing dealer. Also, if the dealership is going to continue to operate under a new dealership the manufacturer shouldn't be required to buy back the inventory.

Persons Testifying: PRO: Scott Hazelgrove, Washington State Dealers Association; Tom Lane, Dwayne Lane's Family of Auto Centers; Sara Carter, Carter Motors.

CON: Sandi Swarthout, Alliance of Auto Manufacturers.