
SENATE BILL 5592

State of Washington

69th Legislature

2025 Regular Session

By Senators Saldaña, Harris, and Lias

1 AN ACT Relating to manufacturers and vehicle dealers; amending
2 RCW 46.70.011, 46.70.180, 46.96.010, 46.96.105, 46.96.140, 46.96.185,
3 and 46.96.230; and adding a new chapter to Title 46 RCW.

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

5 NEW SECTION. **Sec. 1.** It is the intent of the legislature with
6 this act to expand consumer access to zero emissions vehicles by
7 allowing direct sales from qualified zero emissions vehicle
8 manufacturers, while ensuring that traditional auto dealers are
9 supported in transitioning to a zero emissions vehicle-focused
10 market, and to balance innovation with consumer protection and
11 incentivize traditional auto dealers to increase zero emissions
12 vehicle sales.

13 The legislature also intends to ensure fair protections and
14 practices for motor vehicle dealers, recognizing their vital role in
15 serving the needs of communities across the state. By establishing
16 fair reimbursement terms for warranty work; restricting
17 manufacturers' actions related to pricing, preorders, and
18 subscription services; and ensuring that incentive programs have
19 reasonable conditions, the legislature seeks to promote equitable and
20 transparent relationships between manufacturers and dealers.

1 NEW SECTION. **Sec. 2.** The definitions in this section apply
2 throughout this chapter unless the context clearly requires
3 otherwise.

4 (1) "Direct sales" means the sale or lease of a motor vehicle
5 directly from the manufacturer to the consumer and not from a new
6 motor vehicle dealer regulated under chapter 46.96 RCW.

7 (2) "Qualified zero emissions vehicle manufacturer" means an
8 entity that exclusively manufactures zero emissions vehicles and has
9 no existing franchise agreements with new motor vehicle dealers
10 regulated under chapter 46.96 RCW.

11 (3) "Service center" means a facility for the maintenance and
12 repair of vehicles, including zero emissions vehicles.

13 (4) "Traditional auto dealer" means a new motor vehicle dealer
14 operating under a franchise agreement under chapter 46.96 RCW and
15 selling or leasing both new gasoline-powered and new zero emissions
16 vehicles.

17 (5) "Zero emissions vehicle" means a vehicle that emits no
18 exhaust gas from the onboard source of power, other than water vapor.

19 NEW SECTION. **Sec. 3.** A qualified zero emissions vehicle
20 manufacturer may provide direct sales of zero emissions vehicles if
21 it:

22 (1) Establishes at least two service centers within the state;
23 and

24 (2) Provides a mobile service for vehicle owners within the
25 state, before the commencement of any direct sales of zero emissions
26 vehicles.

27 NEW SECTION. **Sec. 4.** (1) A qualified zero emissions vehicle
28 manufacturer may provide online direct sales of zero emissions
29 vehicles if such vehicles are delivered through a designated service
30 center, delivery center, or a partnered dealership as authorized
31 under section 6(3) of this act.

32 (2) Any zero emissions vehicle sold via direct sales as
33 authorized under this chapter must include a warranty, in accordance
34 with chapter 19.118 RCW, covering repairs and maintenance at any
35 designated service center.

36 (3) A qualified zero emissions vehicle manufacturer must also
37 comply with chapter 19.86 RCW.

1 NEW SECTION. **Sec. 5.** Until July 1, 2030, and subject to the
2 availability of amounts appropriated for these specific purposes,
3 any traditional auto dealer that achieves zero emissions vehicle
4 sales that account for at least 50 percent of its total annual
5 vehicle sales, consistent with zero emissions vehicle program
6 standards and rules adopted by the department of ecology, must
7 receive an additional 50 percent of the award received from the zero
8 emissions vehicle technician training and charging infrastructure
9 grant program created in and for the purposes listed in section 6 of
10 this act.

11 NEW SECTION. **Sec. 6.** (1) Subject to the availability of amounts
12 appropriated for this specific purpose, the department of commerce
13 must establish a grant program to support zero emissions vehicle
14 technician training and charging infrastructure at traditional auto
15 dealerships and assist them in their transition to zero emissions
16 vehicle sales.

17 (2) Program funds may only be used for:

18 (a) Publicly available zero emissions vehicle charging and supply
19 equipment infrastructure; and

20 (b) Employee training on zero emissions vehicle technology and
21 servicing.

22 (3) A qualified zero emissions vehicle manufacturer may partner
23 with traditional auto dealers to operate as service centers or
24 delivery partners for the direct sale of zero emissions vehicles. Any
25 traditional auto dealer that partners with a qualified zero emissions
26 vehicle manufacturer for the direct sale of zero emissions vehicles
27 is eligible for a one-time grant program award in an amount as
28 determined by the department of commerce to help cover the costs
29 associated with servicing zero emissions vehicles from qualified zero
30 emissions vehicle manufacturers.

31 (4) The department of commerce shall adopt rules as necessary to
32 implement the grant program.

33 NEW SECTION. **Sec. 7.** By July 1st of each year, beginning July
34 1, 2026, the department must review and report to the appropriate
35 committees of the legislature on the effectiveness of this chapter in
36 expanding zero emissions vehicle access while supporting traditional
37 auto dealers. The report due on July 1, 2034, must include a
38 recommendation on whether or not to retain, modify, or repeal the

1 authorization of direct sales of zero emissions vehicles by qualified
2 zero emissions vehicle manufacturers under this chapter.

3 **Sec. 8.** RCW 46.70.011 and 2016 sp.s. c 26 s 1 are each amended
4 to read as follows:

5 As used in this chapter:

6 (1) "Auction" means a transaction conducted by means of exchanges
7 between an auctioneer and the members of the audience, constituting a
8 series of oral invitations for offers for the purchase of vehicles
9 made by the auctioneer, offers to purchase by members of the
10 audience, and the acceptance of the highest or most favorable offer
11 to purchase.

12 (2) "Auction company" means a sole proprietorship, partnership,
13 corporation, or other legal or commercial entity licensed under
14 chapter 18.11 RCW that only sells or offers to sell vehicles at
15 auction or only arranges or sponsors auctions.

16 (3) "Buyer's agent" means any person, firm, partnership,
17 association, limited liability company, limited liability
18 partnership, or corporation retained or employed by a consumer to
19 arrange for or to negotiate, or both, the purchase or lease of a new
20 motor vehicle on behalf of the consumer, and who is paid a fee or
21 receives other compensation from the consumer for its services.

22 (4) "Department" means the department of licensing, which shall
23 administer and enforce the provisions of this chapter.

24 (5) "Director" means the director of licensing.

25 (6) "Established place of business" means a location meeting the
26 requirements of RCW 46.70.023(1) at which a vehicle dealer conducts
27 business in this state.

28 (7) "Listing dealer" means a used mobile home dealer who makes
29 contracts with sellers who will compensate the dealer for obtaining a
30 willing purchaser for the seller's mobile home.

31 (8) "Manufacturer" means any person, firm, association,
32 corporation, or trust, resident or nonresident, who manufactures or
33 assembles new and unused vehicles or remanufactures vehicles in whole
34 or in part, or who directly or indirectly through one or more
35 intermediaries, controls, is controlled by, or is under the common
36 direction and possesses direct or indirect power to direct or cause
37 the direction of the management and policies of such person, firm,
38 association, corporation, or trust, resident or nonresident, and
39 further includes the terms:

1 (a) "Distributor," which means any person, firm, association,
2 corporation, or trust, resident or nonresident, who in whole or in
3 part offers for sale, sells, or distributes any new and unused
4 vehicle to vehicle dealers or who maintains factory representatives.

5 (b) "Factory branch," which means a branch office maintained by a
6 manufacturer for the purpose of selling or offering for sale,
7 vehicles to a distributor, wholesaler, or vehicle dealer, or for
8 directing or supervising in whole or in part factory or distributor
9 representatives, and further includes any sales promotion
10 organization, whether a person, firm, or corporation, which is
11 engaged in promoting the sale of new and unused vehicles in this
12 state of a particular brand or make to vehicle dealers.

13 (c) "Factory representative," which means a representative
14 employed by a manufacturer, distributor, or factory branch for the
15 purpose of making or promoting for the sale of their vehicles or for
16 supervising or contracting with their dealers or prospective dealers.

17 (9) "Motor vehicle" means every vehicle which is self-propelled
18 and every vehicle which is propelled by electric power obtained from
19 overhead trolley wires, but not operated upon rails, and which is
20 required to be registered and titled under this title.

21 (10) "New motor vehicle" means any motor vehicle that is self-
22 propelled and is required to be registered and titled under this
23 title, has not been previously titled to a retail purchaser or
24 lessee, and is not a "used vehicle" as defined under RCW 46.04.660.

25 (11) "Principal place of business" means that dealer firm's
26 business location in the state, which place the dealer designates as
27 their principal place of business.

28 (12) "Recreational vehicle" means a travel trailer, motor home,
29 truck camper, or camping trailer that is primarily designed and used
30 as temporary living quarters, is either self-propelled or mounted on
31 or drawn by another vehicle, is transient, is not occupied as a
32 primary residence, and is not immobilized or permanently affixed to a
33 mobile home lot.

34 (13) "Retail vehicle dealer" means a vehicle dealer who may buy
35 and sell at both wholesale and retail.

36 (14) "Subagency" means any place of business of a vehicle dealer
37 within the state, which place is physically and geographically
38 separated from the principal place of business of the firm or any
39 place of business of a vehicle dealer within the state, at which

1 place the firm does business using a name other than the principal
2 name of the firm, or both.

3 (15) "Temporary subagency" means a location other than the
4 principal place of business or subagency within the state where a
5 licensed vehicle dealer may secure a license to conduct the business
6 and is licensed for a period of time not to exceed (~~ten~~) 10 days
7 for a specific purpose such as auto shows, shopping center
8 promotions, tent sales, exhibitions, or similar merchandising
9 ventures. No more than six temporary subagency licenses may be issued
10 to a licensee in any (~~twelve-month~~) 12-month period.

11 (16) "Vehicle" means and includes every device capable of being
12 moved upon a public highway and in, upon, or by which any persons or
13 property is or may be transported or drawn upon a public highway,
14 excepting devices moved by human or animal power or used exclusively
15 upon stationary rails or tracks.

16 (17) "Vehicle dealer" means any person, firm, association,
17 corporation, or trust, not excluded by subsection (18) of this
18 section, engaged in the business of buying, selling, listing,
19 exchanging, offering, brokering, leasing with an option to purchase,
20 auctioning, soliciting, or advertising the sale of new or used
21 vehicles, or arranging or offering or attempting to solicit or
22 negotiate on behalf of others, a sale, purchase, or exchange of an
23 interest in new or used motor vehicles, irrespective of whether the
24 motor vehicles are owned by that person. Vehicle dealers shall be
25 classified as follows:

26 (a) A "motor vehicle dealer" is a vehicle dealer that deals in
27 new or used motor vehicles, or both;

28 (b) A "mobile home and travel trailer dealer" is a vehicle dealer
29 that deals in mobile homes, park trailers, or travel trailers, or
30 more than one type of these vehicles;

31 (c) A "miscellaneous vehicle dealer" is a vehicle dealer that
32 deals in motorcycles or vehicles other than motor vehicles or mobile
33 homes and travel trailers or any combination of such vehicles;

34 (d) A "recreational vehicle dealer" is a vehicle dealer that
35 deals in travel trailers, motor homes, truck campers, or camping
36 trailers that are primarily designed and used as temporary living
37 quarters, are either self-propelled or mounted on or drawn by another
38 vehicle, are transient, are not occupied as a primary residence, and
39 are not immobilized or permanently affixed to a mobile home lot.

1 (18) "Vehicle dealer" does not include, nor do the licensing
2 requirements of RCW 46.70.021 apply to, the following persons, firms,
3 associations, or corporations:

4 (a) Receivers, trustees, administrators, executors, guardians, or
5 other persons appointed by, or acting under a judgment or order of,
6 any court; or

7 (b) Public officers while performing their official duties; or

8 (c) Employees of vehicle dealers who are engaged in the specific
9 performance of their duties as such employees; or

10 (d) Any person engaged in an isolated sale of a vehicle in which
11 that person is the registered or legal owner, or both, thereof; or

12 (e) Any person, firm, association, corporation, or trust, engaged
13 in the selling of equipment other than vehicles, subject to
14 registration, used for agricultural or industrial purposes; or

15 (f) A real estate broker licensed under chapter 18.85 RCW, or an
16 affiliated licensee, who, on behalf of another negotiates the
17 purchase, sale, lease, or exchange of a manufactured or mobile home
18 in conjunction with the purchase, sale, exchange, rental, or lease of
19 the land upon which the manufactured or mobile home is, or will be,
20 located; or

21 (g) Owners who are also operators of special highway construction
22 equipment, as defined in RCW 46.04.551, or of the highway
23 construction equipment for which a vehicle license and display
24 vehicle license number plate is required; or

25 (h) Any bank, trust company, savings bank, mutual savings bank,
26 savings and loan association, credit union, and any parent,
27 subsidiary, or affiliate thereof, authorized to do business in this
28 state under state or federal law with respect to the sale or other
29 disposition of a motor vehicle owned and used in their business; or
30 with respect to the acquisition and sale or other disposition of a
31 motor vehicle in which the entity has acquired an interest as a
32 lessor, lessee, or secured party; or

33 (i) Any person who is regularly engaged in the business of
34 acquiring leases or installment contracts by assignment, with respect
35 to the acquisition and sale or other disposition of a motor vehicle
36 in which the person has acquired an interest as a result of the
37 business.

38 (19) "Vehicle salesperson" means any person who for any form of
39 compensation sells, auctions, leases with an option to purchase, or
40 offers to sell or to so lease vehicles on behalf of a vehicle dealer.

1 (20) "Wholesale vehicle dealer" means a vehicle dealer who buys
2 vehicles from or sells vehicles to other Washington licensed vehicle
3 dealers.

4 (21) "Zero emissions vehicle" means a vehicle that emits no
5 exhaust gas from the onboard source of power, other than water vapor.

6 **Sec. 9.** RCW 46.70.180 and 2022 c 182 s 211 are each amended to
7 read as follows:

8 Each of the following acts or practices is unlawful:

9 (1) To cause or permit to be advertised, printed, displayed,
10 published, distributed, broadcasted, televised, or disseminated in
11 any manner whatsoever, any statement or representation with regard to
12 the sale, lease, or financing of a vehicle which is false, deceptive,
13 or misleading(~~(r)~~) including, but not limited to, the following:

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

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

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

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

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

31 (2)(a)(i) To incorporate within the terms of any purchase and
32 sale or lease agreement any statement or representation with regard
33 to the sale, lease, or financing of a vehicle which is false,
34 deceptive, or misleading, including but not limited to terms that
35 include as an added cost to the selling price or capitalized cost of
36 a vehicle an amount for licensing or transfer of title of that
37 vehicle which is not actually due to the state, unless such amount
38 has in fact been paid by the dealer prior to such sale.

39 (ii) However(~~(r-an)~~):

1 (A) An amount not to exceed \$200 per vehicle sale or lease may be
2 charged by a dealer to recover administrative costs for collecting
3 motor vehicle excise taxes, licensing and registration fees and other
4 agency fees, verifying and clearing titles, transferring titles,
5 perfecting, releasing, or satisfying liens or other security
6 interests, and other administrative and documentary services rendered
7 by a dealer in connection with the sale or lease of a vehicle and in
8 carrying out the requirements of this chapter or any other provisions
9 of state law;

10 (B) An amount not to exceed \$250 per zero emissions vehicle sale
11 or lease, or \$275 per zero emissions vehicle sale or lease if the
12 dealer satisfies zero emissions vehicle program standards or rules
13 adopted by the department of ecology, may be charged by a dealer to
14 recover administrative costs for collecting motor vehicle excise
15 taxes; licensing and registration fees and other agency fees;
16 verifying and clearing titles; transferring titles; perfecting,
17 releasing, or satisfying liens or other security interests; and other
18 administrative and documentary services rendered by a dealer in
19 connection with the sale or lease of a vehicle and in carrying out
20 the requirements of this chapter or any other provision of state law.

21 (b) A dealer may charge the documentary service fee in (a) of
22 this subsection under the following conditions:

23 (i) The documentary service fee is disclosed in writing to a
24 prospective purchaser or lessee before the execution of a purchase
25 and sale or lease agreement;

26 (ii) The dealer discloses to the purchaser or lessee in writing
27 that the documentary service fee is a negotiable fee. The disclosure
28 must be written in a typeface that is at least as large as the
29 typeface used in the standard text of the document that contains the
30 disclosure and that is boldfaced, capitalized, underlined, or
31 otherwise set out from the surrounding material so as to be
32 conspicuous. The dealer shall not represent to the purchaser or
33 lessee that the fee or charge is required by the state to be paid by
34 either the dealer or prospective purchaser or lessee;

35 (iii) The documentary service fee is separately designated from
36 the selling price or capitalized cost of the vehicle and from any
37 other taxes, fees, or charges; and

38 (iv) Dealers disclose in any advertisement that a documentary
39 service fee in an amount up to \$200 may be added to the sale price or
40 the capitalized cost.

1 For the purposes of this subsection (2), the term "documentary
2 service fee" means the optional amount charged by a dealer to provide
3 the services specified in (a) of this subsection.

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

13 (4) To commit, allow, or ratify any act of "bushing" which is
14 defined as follows: Entering into a written contract, written
15 purchase order or agreement, retail installment sales agreement, note
16 and security agreement, or written lease agreement, hereinafter
17 collectively referred to as contract or lease, signed by the
18 prospective buyer or lessee of a vehicle, which:

19 (a) Is subject to any conditions or the dealer's or his or her
20 authorized representative's future acceptance, and the dealer fails
21 or refuses within the "bushing" period, which is four calendar days,
22 exclusive of Saturday, Sunday, or legal holiday, and prior to any
23 further negotiations with said buyer or lessee to inform the buyer or
24 lessee either: (i) That the dealer unconditionally accepts the
25 contract or lease, having satisfied, removed, or waived all
26 conditions to acceptance or performance, including, but not limited
27 to, financing, assignment, or lease approval; or (ii) that the dealer
28 rejects the contract or lease, thereby automatically voiding the
29 contract or lease, as long as such voiding does not negate
30 commercially reasonable contract or lease provisions pertaining to
31 the return of the subject vehicle and any physical damage, excessive
32 mileage after the demand for return of the vehicle, and attorneys'
33 fees authorized by law, and tenders the refund of any initial payment
34 or security made or given by the buyer or lessee, including, but not
35 limited to, any down payment, and tenders return of the trade-in
36 vehicle, key, other trade-in, or certificate of title to a trade-in.
37 Tender may be conditioned on return of the subject vehicle if
38 previously delivered to the buyer or lessee.

39 The provisions of this subsection (4)(a) do not impair,
40 prejudice, or abrogate the rights of a dealer to assert a claim

1 against the buyer or lessee for misrepresentation or breach of
2 contract and to exercise all remedies available at law or in equity,
3 including those under chapter 62A.9A RCW, if the dealer, bank, or
4 other lender or leasing company discovers that approval of the
5 contract or financing or approval of the lease was based upon
6 material misrepresentations made by the buyer or lessee, including,
7 but not limited to, misrepresentations regarding income, employment,
8 or debt of the buyer or lessee, as long as the dealer, or his or her
9 staff, has not, with knowledge of the material misrepresentation,
10 aided, assisted, encouraged, or participated, directly or indirectly,
11 in the misrepresentation. A dealer shall not be in violation of this
12 subsection (4)(a) if the buyer or lessee made a material
13 misrepresentation to the dealer, as long as the dealer, or his or her
14 staff, has not, with knowledge of the material misrepresentation,
15 aided, assisted, encouraged, or participated, directly or indirectly,
16 in the misrepresentation.

17 A dealer may inform a buyer or lessee under this subsection
18 (4)(a) regarding the unconditional acceptance or rejection of the
19 contract, lease, or financing by sending an email message to the
20 buyer's or lessee's supplied email address, by phone call, by leaving
21 a voice message or sending a text message to a phone number provided
22 by the buyer or lessee, by in-person oral communication, by mailing a
23 letter by first-class mail if the buyer or lessee expresses a
24 preference for a letter or declines to provide an email address and a
25 phone number capable of receiving a free text message, or by another
26 means agreed to by the buyer or lessee or approved by the department,
27 effective upon the execution, mailing, or sending of the
28 communication and before expiration of the "bushing" period;

29 (b) Permits the dealer to renegotiate a dollar amount specified
30 as trade-in allowance on a vehicle delivered or to be delivered by
31 the buyer or lessee as part of the purchase price or lease, for any
32 reason except:

33 (i) Failure to disclose that the vehicle's certificate of title
34 has been branded for any reason, including, but not limited to,
35 status as a rebuilt vehicle as provided in RCW 46.12.540 and
36 46.12.560; or

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

1 (iii) Excessive additional miles or a discrepancy in the mileage.
2 "Excessive additional miles" means the addition of 500 miles or more,
3 as reflected on the vehicle's odometer, between the time the vehicle
4 was first valued by the dealer for purposes of determining its trade-
5 in value and the time of actual delivery of the vehicle to the
6 dealer. "A discrepancy in the mileage" means (A) a discrepancy
7 between the mileage reflected on the vehicle's odometer and the
8 stated mileage on the signed odometer statement; or (B) a discrepancy
9 between the mileage stated on the signed odometer statement and the
10 actual mileage on the vehicle; or

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

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

18 (6) For any vehicle dealer or vehicle salesperson to refuse to
19 furnish, upon request of a prospective purchaser or lessee, for
20 vehicles previously registered to a business or governmental entity,
21 the name and address of the business or governmental entity.

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

24 (8) To commit any offense relating to a dealer's temporary
25 license permit, including but not limited to failure to properly
26 complete each such permit, or the issuance of more than one such
27 permit on any one vehicle. However, a dealer may issue a second
28 temporary permit on a vehicle if the following conditions are met:

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

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

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

37 (9) For a dealer, salesperson, or mobile home manufacturer,
38 having taken an instrument or cash "on deposit" from a purchaser or
39 lessee prior to the delivery of the bargained-for vehicle, to
40 commingle the "on deposit" funds with assets of the dealer,

1 salesperson, or mobile home manufacturer instead of holding the "on
2 deposit" funds as trustee in a separate trust account until the
3 purchaser or lessee has taken delivery of the bargained-for vehicle.
4 Delivery of a manufactured home shall be deemed to occur in
5 accordance with RCW 46.70.135(5). Failure, immediately upon receipt,
6 to endorse "on deposit" instruments to such a trust account, or to
7 set aside "on deposit" cash for deposit in such trust account, and
8 failure to deposit such instruments or cash in such trust account by
9 the close of banking hours on the day following receipt thereof,
10 shall be evidence of intent to commit this unlawful practice:
11 PROVIDED, HOWEVER, That a motor vehicle dealer may keep a separate
12 trust account which equals his or her customary total customer
13 deposits for vehicles for future delivery. For purposes of this
14 section, "on deposit" funds received from a purchaser of a
15 manufactured home means those funds that a seller requires a
16 purchaser to advance before ordering the manufactured home, but does
17 not include any loan proceeds or moneys that might have been paid on
18 an installment contract.

19 (10) For a dealer or manufacturer to fail to comply with the
20 obligations of any written warranty or guarantee given by the dealer
21 or manufacturer requiring the furnishing of goods and services or
22 repairs within a reasonable period of time, or to fail to furnish to
23 a purchaser or lessee, all parts which attach to the manufactured
24 unit including but not limited to the undercarriage, and all items
25 specified in the terms of a sales or lease agreement signed by the
26 seller and buyer or lessee.

27 (11) For a vehicle dealer to pay to or receive from any person,
28 firm, partnership, association, or corporation acting, either
29 directly or through a subsidiary, as a buyer's agent for consumers,
30 any compensation, fee, purchase moneys or funds that have been
31 deposited into or withdrawn out of any account controlled or used by
32 any buyer's agent, gratuity, or reward in connection with the
33 purchase, sale, or lease of a new motor vehicle.

34 (12) For a buyer's agent, acting directly or through a
35 subsidiary, to pay to or to receive from any motor vehicle dealer any
36 compensation, fee, gratuity, or reward in connection with the
37 purchase, sale, or lease of a new motor vehicle. In addition, it is
38 unlawful for any buyer's agent to engage in any of the following acts
39 on behalf of or in the name of the consumer:

1 (a) Receiving or paying any purchase moneys or funds into or out
2 of any account controlled or used by any buyer's agent;

3 (b) Signing any vehicle purchase orders, sales contracts, leases,
4 odometer statements, or title documents, or having the name of the
5 buyer's agent appear on the vehicle purchase order, sales contract,
6 lease, or title; or

7 (c) Signing any other documentation relating to the purchase,
8 sale, lease, or transfer of any new motor vehicle.

9 It is unlawful for a buyer's agent to use a power of attorney
10 obtained from the consumer to accomplish or effect the purchase,
11 sale, lease, or transfer of ownership documents of any new motor
12 vehicle by any means which would otherwise be prohibited under (a)
13 through (c) of this subsection. However, the buyer's agent may use a
14 power of attorney for physical delivery of motor vehicle license
15 plates to the consumer.

16 Further, it is unlawful for a buyer's agent to engage in any
17 false, deceptive, or misleading advertising, disseminated in any
18 manner whatsoever, including but not limited to making any claim or
19 statement that the buyer's agent offers, obtains, or guarantees the
20 lowest price on any motor vehicle or words to similar effect.

21 (13) For a buyer's agent to arrange for or to negotiate the
22 purchase, or both, of a new motor vehicle through an out-of-state
23 dealer without disclosing in writing to the customer that the new
24 vehicle would not be subject to chapter 19.118 RCW. This subsection
25 also applies to leased vehicles. In addition, it is unlawful for any
26 buyer's agent to fail to have a written agreement with the customer
27 that: (a) Sets forth the terms of the parties' agreement; (b)
28 discloses to the customer the total amount of any fees or other
29 compensation being paid by the customer to the buyer's agent for the
30 agent's services; and (c) further discloses whether the fee or any
31 portion of the fee is refundable.

32 (14) Being a manufacturer, other than a motorcycle manufacturer
33 governed by chapter 46.93 RCW, to:

34 (a) Coerce or attempt to coerce any vehicle dealer to order or
35 accept delivery of any vehicle or vehicles, parts or accessories, or
36 any other commodities which have not been voluntarily ordered by the
37 vehicle dealer: PROVIDED, That recommendation, endorsement,
38 exposition, persuasion, urging, or argument are not deemed to
39 constitute coercion;

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

18 (c) Encourage, aid, abet, or teach a vehicle dealer to sell or
19 lease vehicles through any false, deceptive, or misleading sales or
20 financing practices including but not limited to those practices
21 declared unlawful in this section;

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

25 (e) Refuse to deliver any vehicle publicly advertised for
26 immediate delivery to any duly licensed vehicle dealer having a
27 franchise or contractual agreement for the retail sale or lease of
28 new and unused vehicles sold or distributed by such manufacturer
29 within (~~sixty~~) 60 days after such dealer's order has been received
30 in writing unless caused by inability to deliver because of shortage
31 or curtailment of material, labor, transportation, or utility
32 services, or by any labor or production difficulty, or by any cause
33 beyond the reasonable control of the manufacturer;

34 (f) (~~To provide~~) Provide under the terms of any warranty that a
35 purchaser or lessee of any new or unused vehicle that has been sold
36 or leased, distributed for sale or lease, or transferred into this
37 state for resale or lease by the vehicle manufacturer may only make
38 any warranty claim on any item included as an integral part of the
39 vehicle against the manufacturer of that item;

1 (g) Offer to a consumer a subscription service for any motor
2 vehicle feature that utilizes components and hardware already
3 installed on the motor vehicle at the time of purchase or lease and
4 would function after activation without ongoing cost to or support by
5 the dealer, manufacturer, distributor, or a third-party service
6 provider.

7 (i) This subsection does not apply to navigation system updates,
8 satellite radio, roadside assistance, software-dependent driver
9 assistance or driver automation features, and vehicle-connected
10 services that rely on cellular or other data networks for continued
11 operation.

12 (ii) As used in this subsection:

13 (A) "Motor vehicle feature" means any convenience or safety
14 function included on the motor vehicle, such as heated seats or
15 driver assistance, that typically is offered to a consumer as an
16 upgrade at the time of purchase or lease of the motor vehicle.

17 (B) "Subscription service" means a service provided in exchange
18 for a recurring payment including, but not limited to, a weekly,
19 monthly, or annual payment charged to and made by a consumer, but
20 does not include a consumer's reoccurring payment made pursuant to a
21 conditional sales contract or lease contract.

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

33 (15) Unlawful transfer of an ownership interest in a motor
34 vehicle as defined in RCW 19.116.050.

35 (16) To knowingly and intentionally engage in collusion with a
36 registered owner of a vehicle to repossess and return or resell the
37 vehicle to the registered owner in an attempt to avoid a suspended
38 license impound under chapter 46.55 RCW. However, compliance with
39 chapter 62A.9A RCW in repossessing, selling, leasing, or otherwise

1 disposing of the vehicle, including providing redemption rights to
2 the debtor, is not a violation of this section.

3 (17)(a) For a dealer to enter into a new motor vehicle sales
4 contract without disclosing in writing to a buyer of the new motor
5 vehicle, or to a dealer in the case of an unregistered motor vehicle,
6 any known damage and repair to the new motor vehicle if the damage
7 exceeds five percent of the manufacturer's suggested retail price as
8 calculated at the dealer's authorized warranty rate for labor and
9 parts, or \$1,000, whichever amount is greater. A manufacturer or new
10 motor vehicle dealer is not required to disclose to a dealer or buyer
11 that glass, tires, bumpers, or cosmetic parts of a new motor vehicle
12 were damaged at any time if the damaged item has been replaced with
13 original or comparable equipment. A replaced part is not part of the
14 cumulative damage required to be disclosed under this subsection.

15 (b) A manufacturer is required to provide the same disclosure to
16 a dealer of any known damage or repair as required in (a) of this
17 subsection.

18 (c) If disclosure of any known damage or repair is not required
19 under this section, a buyer may not revoke or rescind a sales
20 contract due to the fact that the new motor vehicle was damaged and
21 repaired before completion of the sale.

22 (d) As used in this section:

23 (i) "Cosmetic parts" means parts that are attached by and can be
24 replaced in total through the use of screws, bolts, or other
25 fasteners without the use of welding or thermal cutting, and includes
26 windshields, bumpers, hoods, or trim panels.

27 (ii) "Manufacturer's suggested retail price" means the retail
28 price of the new motor vehicle suggested by the manufacturer, and
29 includes the retail delivered price suggested by the manufacturer for
30 each accessory or item of optional equipment physically attached to
31 the new motor vehicle at the time of delivery to the new motor
32 vehicle dealer that is not included within the retail price suggested
33 by the manufacturer for the new motor vehicle.

34 (18) To take reservations, dictate the selling price, or
35 negotiate binding terms of sale or leasing of a new motor vehicle
36 directly between the manufacturer, factory branch, distributor, or
37 distributor branch and retail buyers or lessees including, but not
38 limited to, agreements on price, trade-in value, or other substantive
39 terms of sale or leasing of new vehicles, or otherwise if the new
40 motor vehicle will be delivered for sale or lease in Washington,

1 except for those manufacturers licensed under RCW
2 46.96.185(1)(g)(vii).

3 **Sec. 10.** RCW 46.96.010 and 1989 c 415 s 1 are each amended to
4 read as follows:

5 The legislature finds and declares that the distribution and sale
6 of motor vehicles in this state vitally affect the general economy of
7 the state and the public interest and public welfare, that provision
8 for warranty service to motor vehicles is of substantial concern to
9 the people of this state, that the maintenance of fair competition
10 among dealers and others is in the public interest, and that the
11 maintenance of strong and sound dealerships is essential to provide
12 continuing and necessary reliable services to the consuming public in
13 this state and to provide stable employment to the citizens of this
14 state. The legislature further finds that there is a substantial
15 disparity in bargaining power between automobile manufacturers and
16 their dealers, and that in order to promote the public interest and
17 the public welfare, and in the exercise of its police power, it is
18 necessary to regulate the relationship between motor vehicle dealers
19 and motor vehicle manufacturers, importers, distributors, and their
20 representatives doing business in this state, not only for the
21 protection of dealers but also for the benefit ~~((for))~~ of the public
22 in assuring the continued availability and servicing of automobiles
23 sold to the public.

24 The legislature recognizes it is in the best interest for
25 manufacturers and dealers of motor vehicles to conduct business with
26 each other in a fair, efficient, and competitive manner. The
27 legislature declares the public interest is best served by dealers
28 being assured of the ability to manage their business enterprises
29 under a contractual obligation with manufacturers where dealers do
30 not experience unreasonable interference and are assured of the
31 ability to transfer ownership of their business without undue
32 constraints. It is the intent of the legislature to impose a
33 regulatory scheme and to regulate competition in the motor vehicle
34 industry to the extent necessary to balance fairness and efficiency.
35 These actions will permit motor vehicle dealers to better serve
36 consumers ~~((and allow dealers to))~~, devote their best competitive
37 efforts and resources to the sale and ~~((services))~~ service of the
38 manufacturer's products to consumers, and provide fair compensation
39 for work performed in all departments of the business.

1 **Sec. 11.** RCW 46.96.105 and 2014 c 214 s 6 are each amended to
2 read as follows:

3 (1) Each manufacturer shall specify in its franchise agreement,
4 or in a separate written agreement, with each of its dealers licensed
5 in this state, the dealer's obligation to perform warranty work or
6 service on the manufacturer's products. Each manufacturer shall
7 provide each of its dealers with a schedule of compensation to be
8 paid to the dealer for any warranty work or service, including parts,
9 labor, and diagnostic work, required of the dealer by the
10 manufacturer in connection with the manufacturer's products. The
11 schedule of compensation must not be less than the rates charged by
12 the dealer for similar service to retail customers for nonwarranty
13 service and repairs, and must not be less than the schedule of
14 compensation for an existing dealer as of June 10, 2010.

15 (a) The rates charged by the dealer for nonwarranty service or
16 work for parts means the price paid by the dealer for those parts,
17 including all shipping and other charges, increased by the
18 franchisee's average percentage markup. If a manufacturer or
19 distributor furnishes or arranges the order or distribution of a part
20 or component to a new motor vehicle dealer at no or reduced cost to
21 use in performing repairs, the manufacturer or distributor shall
22 compensate the dealer for the part or component in the same manner as
23 warranty parts compensation under this section by compensating the
24 dealer the retail parts rate on the wholesale cost for the part or
25 component as listed in the manufacturer's or distributor's price
26 schedule, minus the wholesale cost for the part or component. A
27 manufacturer shall not establish or implement a special part or
28 component number for parts used in predelivery, dealer preparation,
29 warranty, service contract, certified preowned warranty, recall,
30 campaign service, authorized goodwill, or maintenance-only
31 applications if it results in lower compensation to the dealer than
32 as calculated in this section. A dealer must establish and declare
33 the dealer's average percentage markup by submitting to the
34 manufacturer ((~~one hundred~~)) 100 sequential customer-paid service
35 repair orders or ninety days of customer-paid service repair orders,
36 whichever is less, covering repairs made no more than ((~~one hundred~~
37 ~~eighty~~)) 180 days before the submission. A change in a dealer's
38 established average percentage markup takes effect ((~~thirty~~)) 30 days
39 following the submission. A manufacturer may not require a dealer to
40 establish average percentage markup by another methodology. A

1 manufacturer may not require information that the dealer believes is
2 unduly burdensome or time-consuming to provide, including, but not
3 limited to, part-by-part or transaction-by-transaction calculations.
4 In calculating the retail rate customarily charged by the dealer for
5 parts and labor, the following work must not be included in the
6 calculation:

7 (i) Repairs for manufacturer or distributor special events,
8 specials, or promotional discounts for retail customer repairs;

9 (ii) Parts sold at wholesale or at reduced or specially
10 negotiated rates for insurance repairs;

11 (iii) Routine maintenance not covered under warranty, such as
12 fluids, filters, and belts not provided in the course of repairs;

13 (iv) Nuts, bolts, fasteners, and similar items that do not have
14 an individual part number;

15 (v) Tires;

16 (vi) Batteries and light bulbs; and

17 (vii) Vehicle reconditioning.

18 (b) A manufacturer shall compensate a dealer for labor and
19 diagnostic work at (~~the rates charged by the dealer to its retail~~
20 ~~customers for such work~~) a rate determined by dividing the total
21 customer labor charges for qualifying nonwarranty repairs in the
22 repair orders submitted under this section by the total number of
23 hours that would be allowed for the repairs if the repairs were made
24 under the manufacturer's, importer's, or distributor's time
25 allowances used in compensating the dealer for warranty work and for
26 any documentation work required by the manufacturer to authorize or
27 verify the work including, but not limited to, photographs,
28 paperwork, and electronic data entry. However, a manufacturer is not
29 required to compensate a dealer more than once for the same
30 documentation work. If a manufacturer can demonstrate that the rates
31 unreasonably exceed those of all other franchised motor vehicle
32 dealers in the same relevant market area offering the same or a
33 competitive motor vehicle line, the manufacturer is not required to
34 honor the rate increase proposed by the dealer. If the manufacturer
35 is not required to honor the rate increase proposed by the dealer,
36 the dealer is entitled to resubmit a new proposed rate for labor and
37 diagnostic work.

38 (c) A dealer may not be granted an increase in the average
39 percentage markup or labor and diagnostic work rate more than once in
40 one calendar year.

1 (2) All claims for warranty work for parts and labor made by
2 dealers under this section must be submitted to the manufacturer
3 within (~~ninety~~) 90 days of the date the work was performed. All
4 claims submitted must be paid by the manufacturer within (~~thirty~~)
5 30 days following receipt, provided the claim has been approved by
6 the manufacturer. The manufacturer has the right to audit claims for
7 warranty work and to charge the dealer for any unsubstantiated,
8 incorrect, or false claims for a period of nine months following
9 payment. However, the manufacturer may audit and charge the dealer
10 for any fraudulent claims during any period for which an action for
11 fraud may be commenced under applicable state law.

12 (3) All claims submitted by dealers on the forms and in the
13 manner specified by the manufacturer shall be either approved or
14 disapproved within (~~thirty~~) 30 days following their receipt. The
15 manufacturer shall notify the dealer in writing of any disapproved
16 claim, and shall set forth the reasons why the claim was not
17 approved. Any claim not specifically disapproved in writing within
18 (~~thirty~~) 30 days following receipt is approved, and the
19 manufacturer is required to pay that claim within (~~thirty~~) 30 days
20 of receipt of the claim.

21 (4) A manufacturer may not otherwise recover all or any portion
22 of its costs for compensating its dealers licensed in this state for
23 warranty parts and service either by reduction in the amount due to
24 the dealer or by separate charge, surcharge, or other imposition.

25 **Sec. 12.** RCW 46.96.140 and 1994 c 274 s 1 are each amended to
26 read as follows:

27 (1) For the purposes of this section, and throughout this
28 chapter, the term "relevant market area" is defined as follows:

29 (a) If the population in the county in which the proposed new or
30 relocated dealership is to be located is (~~four hundred thousand~~)
31 400,000 or more, the relevant market area is the geographic area
32 within a radius of (~~eight~~) 10 miles around the proposed site;

33 (b) If the population in the county in which the proposed new or
34 relocated dealership is to be located is (~~two hundred thousand~~)
35 200,000 or more and less than (~~four hundred thousand~~) 400,000, the
36 relevant market area is the geographic area within a radius of
37 (~~twelve~~) 12 miles around the proposed site;

38 (c) If the population in the county in which the proposed new or
39 relocated dealership is to be located is less than (~~two hundred~~

1 ~~thousand~~) 200,000, the relevant market area is the geographic area
2 within a radius of (~~sixteen~~) 16 miles around the proposed site.

3 In determining population for this definition, the most recent
4 census by the United States Bureau of Census or the most recent
5 population update, either from the National Planning Data Corporation
6 or other similar recognized source, shall be accumulated for all
7 census tracts either wholly or partially within the relevant market
8 area.

9 (2) For the purpose of RCW 46.96.140 through 46.96.180, the term
10 "motor vehicle dealer" does not include dealerships who exclusively
11 market vehicles 19,000 pounds gross vehicle weight and above.

12 (3) Notwithstanding the terms of a franchise and notwithstanding
13 the terms of a waiver, if a manufacturer intends or proposes to enter
14 into a franchise to establish an additional new motor vehicle dealer
15 or to relocate an existing new motor vehicle dealer within or into a
16 relevant market area in which the same line make of motor vehicle is
17 then represented, the manufacturer shall provide at least (~~sixty~~)
18 60 days advance written notice to the department and to each new
19 motor vehicle dealer of the same line make in the relevant market
20 area, of the manufacturer's intention to establish an additional new
21 motor vehicle dealer or to relocate an existing new motor vehicle
22 dealer within or into the relevant market area. The notice shall be
23 sent by certified mail to each such party and shall include the
24 following information:

25 (a) The specific location at which the additional or relocated
26 motor vehicle dealer will be established;

27 (b) The date on or after which the additional or relocated motor
28 vehicle dealer intends to commence business at the proposed location;

29 (c) The identity of all motor vehicle dealers who are franchised
30 to sell the same line make vehicles as the proposed dealer and who
31 have licensed locations within the relevant market area;

32 (d) The names and addresses, if available, of the owners of and
33 principal investors in the proposed additional or relocated motor
34 vehicle dealership; and

35 (e) The specific grounds or reasons for the proposed
36 establishment of an additional motor vehicle dealer or relocation of
37 an existing dealer.

38 **Sec. 13.** RCW 46.96.185 and 2018 c 296 s 2 are each amended to
39 read as follows:

1 (1) Notwithstanding the terms of a franchise agreement, a
2 manufacturer, distributor, factory branch, or factory representative,
3 or an agent, officer, parent company, wholly or partially owned
4 subsidiary, affiliated entity, or other person controlled by or under
5 common control with a manufacturer, distributor, factory branch, or
6 factory representative, shall not:

7 (a) Discriminate between new motor vehicle dealers by selling or
8 offering to sell a like vehicle to one dealer at a lower actual price
9 than the actual price offered to another dealer for the same model
10 similarly equipped;

11 (b) Discriminate between new motor vehicle dealers by selling or
12 offering to sell parts or accessories to one dealer at a lower actual
13 price than the actual price offered to another dealer;

14 (c) Discriminate between new motor vehicle dealers by using a
15 promotion plan, marketing plan, or other similar device that results
16 in a lower actual price on vehicles, parts, or accessories being
17 charged to one dealer over another dealer;

18 (d) Discriminate between new motor vehicle dealers by adopting a
19 method, or changing an existing method, for the allocation,
20 scheduling, or delivery of new motor vehicles, parts, or accessories
21 to its dealers that is not fair, reasonable, and equitable. Upon the
22 request of a dealer, a manufacturer, distributor, factory branch, or
23 factory representative shall disclose in writing to the dealer the
24 method by which new motor vehicles, parts, and accessories are
25 allocated, scheduled, or delivered to its dealers handling the same
26 line or make of vehicles;

27 (e) Discriminate against a new motor vehicle dealer by
28 preventing, offsetting, or otherwise impairing the dealer's right to
29 request a documentary service fee on affinity or similar program
30 purchases. This prohibition applies to, but is not limited to, any
31 promotion plan, marketing plan, manufacturer or dealer employee or
32 employee friends or family purchase programs, or similar plans or
33 programs;

34 (f) Give preferential treatment to some new motor vehicle dealers
35 over others by refusing or failing to deliver, in reasonable
36 quantities and within a reasonable time after receipt of an order, to
37 a dealer holding a franchise for a line or make of motor vehicles
38 sold or distributed by the manufacturer, distributor, factory branch,
39 or factory representative, a new vehicle, parts, or accessories, if
40 the vehicle, parts, or accessories are being delivered to other

1 dealers, or require a dealer to purchase unreasonable advertising
2 displays or other materials, or unreasonably require a dealer to
3 remodel or renovate existing facilities as a prerequisite to
4 receiving a model or series of vehicles;

5 (g) Compete with a new motor vehicle dealer of any make or line
6 by acting in the capacity of a new motor vehicle dealer, or by
7 owning, operating, or controlling, whether directly or indirectly, a
8 motor vehicle dealership in this state. It is not, however, a
9 violation of this subsection for:

10 (i) A manufacturer, distributor, factory branch, or factory
11 representative to own or operate a dealership for a temporary period,
12 not to exceed two years, during the transition from one owner of the
13 dealership to another where the dealership was previously owned by a
14 franchised dealer and is currently for sale to any qualified
15 independent person at a fair and reasonable price. The temporary
16 operation may be extended for one (~~twelve-month~~) 12-month period on
17 petition of the temporary operator to the department. The matter will
18 be handled as an adjudicative proceeding under chapter 34.05 RCW. A
19 dealer who is a franchisee of the petitioning manufacturer or
20 distributor may intervene and participate in a proceeding under this
21 subsection (1)(g)(i). The temporary operator has the burden of proof
22 to show justification for the extension and a good faith effort to
23 sell the dealership to an independent person at a fair and reasonable
24 price;

25 (ii) A manufacturer, distributor, factory branch, or factory
26 representative to own or operate a dealership in conjunction with an
27 independent person in a bona fide business relationship for the
28 purpose of broadening the diversity of its dealer body and enhancing
29 opportunities for qualified persons who are part of a group who have
30 historically been underrepresented in its dealer body or who
31 represent overburdened communities as defined in RCW 70A.02.010, or
32 other qualified persons who lack the resources to purchase a
33 dealership outright, and where the independent person: (A) Has made,
34 or within a period of two years from the date of commencement of
35 operation will have made, a significant, bona fide capital investment
36 in the dealership that is subject to loss; (B) has an ownership
37 interest in the dealership; and (C) operates the dealership under a
38 bona fide written agreement with the manufacturer, distributor,
39 factory branch, or factory representative under which he or she will
40 acquire all of the ownership interest in the dealership within a

1 reasonable period of time and under reasonable terms and conditions.
2 The manufacturer, distributor, factory branch, or factory
3 representative has the burden of proof of establishing that the
4 acquisition of the dealership by the independent person was made
5 within a reasonable period of time and under reasonable terms and
6 conditions. Nothing in this subsection (1)(g)(ii) relieves a
7 manufacturer, distributor, factory branch, or factory representative
8 from complying with (a) through (f) of this subsection;

9 (iii) A manufacturer, distributor, factory branch, or factory
10 representative to own or operate a dealership in conjunction with an
11 independent person in a bona fide business relationship where the
12 independent person: (A) Has made, or within a period of two years
13 from the date of commencement of operation will have made, a
14 significant, bona fide capital investment in the dealership that is
15 subject to loss; (B) has an ownership interest in the dealership; and
16 (C) operates the dealership under a bona fide written agreement with
17 the manufacturer, distributor, factory branch, or factory
18 representative under which he or she will acquire all of the
19 ownership interest in the dealership within a reasonable period of
20 time and under reasonable terms and conditions. The manufacturer,
21 distributor, factory branch, or factory representative has the burden
22 of proof of establishing that the acquisition of the dealership by
23 the independent person was made within a reasonable period of time
24 and under reasonable terms and conditions. The number of dealerships
25 operated under this subsection (1)(g)(iii) may not exceed four
26 percent rounded up to the nearest whole number of a manufacturer's
27 total of new motor vehicle dealer franchises in this state. Nothing
28 in this subsection (1)(g)(iii) relieves a manufacturer, distributor,
29 factory branch, or factory representative from complying with (a)
30 through (f) of this subsection;

31 (iv) A truck manufacturer to own, operate, or control a new motor
32 vehicle dealership that sells only trucks of that manufacturer's line
33 make with a gross vehicle weight rating of 12,500 pounds or more, and
34 the truck manufacturer has been continuously engaged in the retail
35 sale of the trucks at least since January 1, 1993;

36 (v) A manufacturer to own, operate, or control a new motor
37 vehicle dealership trading exclusively in a single line make of the
38 manufacturer if (A) the manufacturer does not own, directly or
39 indirectly, in the aggregate, in excess of (~~forty-five~~) 45 percent
40 of the total ownership interest in the dealership, (B) at the time

1 the manufacturer first acquires ownership or assumes operation or
2 control of any such dealership, the distance between any dealership
3 thus owned, operated, or controlled and the nearest new motor vehicle
4 dealership trading in the same line make of vehicle and in which the
5 manufacturer has no ownership or control is not less than (~~fifteen~~)
6 15 miles and complies with the applicable provisions in the relevant
7 market area sections of this chapter, (C) all of the manufacturer's
8 franchise agreements confer rights on the dealer of that line make to
9 develop and operate within a defined geographic territory or area, as
10 many dealership facilities as the dealer and the manufacturer agree
11 are appropriate, and (D) as of January 1, 2000, the manufacturer had
12 no more than four new motor vehicle dealers of that manufacturer's
13 line make in this state, and at least half of those dealers owned and
14 operated two or more dealership facilities in the geographic
15 territory or area covered by their franchise agreements with the
16 manufacturer;

17 (vi) A final-stage manufacturer to own, operate, or control a new
18 motor vehicle dealership; or

19 (vii) A manufacturer that (~~held a vehicle dealer license in this~~
20 ~~state on January 1, 2014~~) has not previously offered a franchise to
21 a dealer in the state and produces only zero emissions vehicles, as
22 defined in RCW 46.70.011, to own, operate, or control a new motor
23 vehicle dealership that sells new vehicles that are only of that
24 manufacturer's makes or lines (~~and that are not sold new by a~~
25 ~~licensed independent franchise dealer,~~) or to own, operate, or
26 control or contract with companies that provide finance, leasing, or
27 service for vehicles that are of that manufacturer's makes or lines,
28 or provide service for vehicles that are of that manufacturer's makes
29 or lines. This subsection (1)(g)(vii) does not apply if a common
30 entity of the manufacturer, through any importers, distributors,
31 licensees, or affiliates, has ever entered into a franchise agreement
32 with an independent dealer for the sale of new motor vehicles. For
33 purposes of this subsection, "common entity" means a person:

34 (A) Who is directly or indirectly controlled by or has more than
35 30 percent of its equity interest directly or indirectly owned,
36 beneficially or of record, through any form of ownership structure,
37 by a manufacturer, importer, distributor, or licensee, or an
38 affiliate thereof; or

39 (B) Who has more than 30 percent of its equity interest directly
40 or indirectly controlled or owned, beneficially or of record, through

1 any form of ownership structure, by one or more persons who also
2 directly or indirectly control or own, beneficially or of record,
3 more than 30 percent of the equity interests of a manufacturer or
4 importer, or any affiliate thereof;

5 (h) Compete with a new motor vehicle dealer by owning, operating,
6 or controlling, whether directly or indirectly, a service facility in
7 this state for the repair or maintenance of motor vehicles under the
8 manufacturer's new car warranty and extended warranty. Nothing in
9 this subsection (1)(h), however, prohibits a manufacturer,
10 distributor, factory branch, or factory representative from owning or
11 operating a service facility for the purpose of providing or
12 performing maintenance, repair, or service work on motor vehicles
13 that are owned by the manufacturer, distributor, factory branch, or
14 factory representative;

15 (i) Use confidential or proprietary information obtained from a
16 new motor vehicle dealer to unfairly compete with the dealer. For
17 purposes of this subsection (1)(i), "confidential or proprietary
18 information" means trade secrets as defined in RCW 19.108.010,
19 business plans, marketing plans or strategies, customer lists,
20 contracts, sales data, revenues, or other financial information;

21 (j)(i) Terminate, cancel, or fail to renew a franchise with a new
22 motor vehicle dealer based upon any of the following events, which do
23 not constitute good cause for termination, cancellation, or
24 nonrenewal under RCW 46.96.060: (A) The fact that the new motor
25 vehicle dealer owns, has an investment in, participates in the
26 management of, or holds a franchise agreement for the sale or service
27 of another make or line of new motor vehicles; (B) the fact that the
28 new motor vehicle dealer has established another make or line of new
29 motor vehicles or service in the same dealership facilities as those
30 of the manufacturer or distributor; (C) that the new motor vehicle
31 dealer has or intends to relocate the manufacturer or distributor's
32 make or line of new motor vehicles or service to an existing
33 dealership facility that is within the relevant market area, as
34 defined in RCW 46.96.140, of the make or line to be relocated, except
35 that, in any nonemergency circumstance, the dealer must give the
36 manufacturer or distributor at least (~~sixty~~) 60 days' notice of his
37 or her intent to relocate and the relocation must comply with RCW
38 46.96.140 and 46.96.150 for any same make or line facility; or (D)
39 the failure of a franchisee to change the location of the dealership

1 or to make substantial alterations to the use or number of franchises
2 on the dealership premises or facilities.

3 (ii) Notwithstanding the limitations of this section, a
4 manufacturer may, for separate consideration, enter into a written
5 contract with a dealer to exclusively sell and service a single make
6 or line of new motor vehicles at a specific facility for a defined
7 period of time. The penalty for breach of the contract must not
8 exceed the amount of consideration paid by the manufacturer plus a
9 reasonable rate of interest;

10 (k) Coerce or attempt to coerce a motor vehicle dealer to refrain
11 from, or prohibit or attempt to prohibit a new motor vehicle dealer
12 from acquiring, owning, having an investment in, participating in the
13 management of, or holding a franchise agreement for the sale or
14 service of another make or line of new motor vehicles or related
15 products, or establishing another make or line of new motor vehicles
16 or service in the same dealership facilities, if the prohibition
17 against acquiring, owning, investing, managing, or holding a
18 franchise for such additional make or line of vehicles or products,
19 or establishing another make or line of new motor vehicles or service
20 in the same dealership facilities, is not supported by reasonable
21 business considerations. The burden of proving that reasonable
22 business considerations support or justify the prohibition against
23 the additional make or line of new motor vehicles or products or
24 nonexclusive facilities is on the manufacturer;

25 (l) Require, by contract or otherwise, a new motor vehicle dealer
26 to make a material alteration, expansion, or addition to any
27 dealership facility, unless the required alteration, expansion, or
28 addition is uniformly required of other similarly situated new motor
29 vehicle dealers of the same make or line of vehicles and is
30 reasonable in light of all existing circumstances, including economic
31 conditions. In any proceeding in which a required facility
32 alteration, expansion, or addition is an issue, the manufacturer or
33 distributor has the burden of proof. Except for a program or any
34 renewal or modification of a program that is in effect with one or
35 more new motor vehicle dealers in this state on June 12, 2014, a
36 manufacturer shall not require, coerce, or attempt to coerce any new
37 motor vehicle dealer by program, policy, standard, or otherwise to
38 change the location of the dealership or construct, replace,
39 renovate, or make any substantial changes, alterations, or remodeling
40 to a new motor vehicle dealer's sales or service facilities, except

1 as necessary to comply with health or safety laws or to comply with
2 technology requirements without which a dealer would be unable to
3 service a vehicle the dealer has elected to sell, before the
4 (~~tenth~~) 10th anniversary of the date of issuance of the certificate
5 of occupancy or the manufacturer's approval, whichever is later,
6 from:

7 (i) The date construction of the dealership at that location was
8 completed if the construction was in substantial compliance with
9 standards or plans provided by a manufacturer, distributor, or
10 representative or through a subsidiary or agent of the manufacturer,
11 distributor, or representative; or

12 (ii) The date a prior change, alteration, or remodel of the
13 dealership at that location was completed if the construction was in
14 substantial compliance with standards or plans provided by a
15 manufacturer, distributor, or representative or through a subsidiary
16 or agent of the manufacturer, distributor, or representative;

17 (m) Prevent or attempt to prevent by contract or otherwise any
18 new motor vehicle dealer from changing the executive management of a
19 new motor vehicle dealer unless the manufacturer or distributor,
20 having the burden of proof, can show that a proposed change of
21 executive management will result in executive management by a person
22 or persons who are not of good moral character or who do not meet
23 reasonable, preexisting, and equitably applied standards of the
24 manufacturer or distributor. If a manufacturer or distributor rejects
25 a proposed change in the executive management, the manufacturer or
26 distributor shall give written notice of its reasons to the dealer
27 within (~~sixty~~) 60 days after receiving written notice from the
28 dealer of the proposed change and all related information reasonably
29 requested by the manufacturer or distributor, or the change in
30 executive management must be considered approved;

31 (n) Condition the sale, transfer, relocation, or renewal of a
32 franchise agreement or condition manufacturer, distributor, factory
33 branch, or factory representative sales, services, or parts
34 incentives upon the manufacturer obtaining site control, including
35 rights to purchase or lease the dealer's facility, or an agreement to
36 make improvements or substantial renovations to a facility. For
37 purposes of this section, a substantial renovation has a gross cost
38 to the dealer in excess of (~~five thousand dollars~~) \$5,000;

39 (o) Fail to provide to a new motor vehicle dealer purchasing or
40 leasing building materials or other facility improvements the right

1 to purchase or lease franchisor image elements of like kind and
2 quality from an alternative vendor selected by the dealer if the
3 goods or services are to be supplied by a vendor selected,
4 identified, or designated by the manufacturer or distributor. If the
5 vendor selected by the manufacturer or distributor is the only
6 available vendor of like kind and quality materials, the new motor
7 vehicle dealer must be given the opportunity to purchase the
8 franchisor image elements at a price substantially similar to the
9 capitalized lease costs of the elements. This subsection (1)(o) must
10 not be construed to allow a new motor vehicle dealer or vendor to
11 gain additional intellectual property rights they are not otherwise
12 entitled to or to impair or eliminate the intellectual property
13 rights of the manufacturer or distributor or to permit a new motor
14 vehicle dealer to erect or maintain signs that do not conform to the
15 reasonable intellectual property usage guidelines of the manufacturer
16 or distributor;

17 (p) Take any adverse action against a new motor vehicle dealer
18 including, but not limited to, charge backs or reducing vehicle
19 allocations, for sales and service performance within a designated
20 area of primary responsibility unless that area is reasonable in
21 light of proximity to relevant census tracts to the dealership and
22 competing dealerships, highways and road networks, any natural or
23 man-made barriers, demographics, including economic factors, buyer
24 behavior information, and contains only areas inside the state of
25 Washington unless specifically approved by the new motor vehicle
26 dealer;

27 (q) Require, coerce, or attempt to coerce any new motor vehicle
28 dealer by program, policy, facility guide, standard, or otherwise to
29 order or accept delivery of any service or repair appliances,
30 equipment, parts, or accessories, or any other commodity not required
31 by law, which the dealer has not voluntarily ordered or which the
32 dealer does not have the right to return unused for a full refund
33 within (~~(ninety)~~) 90 days or a longer period as mutually agreed upon
34 by the dealer and manufacturer; (~~(or)~~)

35 (r) Modify the franchise agreement for any new motor vehicle
36 dealer unless the manufacturer notifies the dealer in writing of its
37 intention to modify the agreement at least (~~(ninety)~~) 90 days before
38 the effective date thereof, stating the specific grounds for the
39 modification, and undertakes the modification in good faith, for good
40 cause, and in a manner that would not adversely and substantially

1 alter the rights, obligations, investment, or return on investment of
2 the franchised new motor vehicle dealer under the existing agreement;
3 or

4 (s) Implement a program or policy that encourages or requires the
5 franchisee to install direct current fast charging stations, unless
6 all of the following are satisfied:

7 (i) If the program or policy requires public access to the direct
8 current fast charging stations, the franchisor shall reimburse the
9 dealer for one-half of the cost to install and maintain the stations
10 if the dealer pays the franchisor half of the net income generated
11 from the ongoing use of the stations;

12 (ii) The program or policy may not encourage or require the
13 franchisee to install direct current fast charging stations at its
14 dealership location if the franchisee can obtain access to direct
15 current fast charging stations that satisfy the program or policy
16 within a reasonable distance, with a minimum of five miles, of the
17 franchisee's dealership location;

18 (iii) The program or policy must be reasonable in light of all
19 existing circumstances including, but not limited to, local
20 conditions, supply constraints, time constraints, advancements in
21 vehicular technology, and electric grid integration; and

22 (iv) The program or policy must allow a new motor vehicle dealer
23 the right to purchase or lease goods or services of like kind and
24 quality from an alternative vendor selected by the dealer if the
25 goods or services are to be supplied by a vendor selected,
26 identified, or designated by the manufacturer or distributor.

27 (2) Subsection (1) (a), (b), and (c) of this section do not apply
28 to sales to a motor vehicle dealer: (a) For resale to a federal,
29 state, or local government agency; (b) where the vehicles will be
30 sold or donated for use in a program of driver's education; (c) where
31 the sale is made under a manufacturer's bona fide promotional program
32 offering sales incentives or rebates; (d) where the sale of parts or
33 accessories is under a manufacturer's bona fide quantity discount
34 program; or (e) where the sale is made under a manufacturer's bona
35 fide fleet vehicle discount program. For purposes of this subsection,
36 "fleet" means a group of (~~fifteen~~) 15 or more new motor vehicles
37 purchased or leased by a dealer at one time under a single purchase
38 or lease agreement for use as part of a fleet, and where the dealer
39 has been assigned a fleet identifier code by the department of
40 licensing.

1 (3) The following definitions apply to this section:

2 (a) "Actual price" means the price to be paid by the dealer less
3 any incentive paid by the manufacturer, distributor, factory branch,
4 or factory representative, whether paid to the dealer or the ultimate
5 purchaser of the vehicle.

6 (b) "Control" or "controlling" means (i) the possession of, title
7 to, or control of ten percent or more of the voting equity interest
8 in a person, whether directly or indirectly through a fiduciary,
9 agent, or other intermediary, or (ii) the possession, direct or
10 indirect, of the power to direct or cause the direction of the
11 management or policies of a person, whether through the ownership of
12 voting securities, through director control, by contract, or
13 otherwise, except as expressly provided under the franchise
14 agreement.

15 (c) "Motor vehicles" does not include trucks that are 14,001
16 pounds gross vehicle weight and above or recreational vehicles as
17 defined in RCW 43.22.335.

18 (d) "Operate" means to manage a dealership, whether directly or
19 indirectly.

20 (e) "Own" or "ownership" means to hold the beneficial ownership
21 of one percent or more of any class of equity interest in a
22 dealership, whether the interest is that of a shareholder, partner,
23 limited liability company member, or otherwise. To hold an ownership
24 interest means to have possession of, title to, or control of the
25 ownership interest, whether directly or indirectly through a
26 fiduciary, agent, or other intermediary.

27 (4) A violation of this section is deemed to affect the public
28 interest and constitutes an unlawful and unfair practice under
29 chapter 19.86 RCW. A person aggrieved by an alleged violation of this
30 section may petition the department to have the matter handled as an
31 adjudicative proceeding under chapter 34.05 RCW.

32 **Sec. 14.** RCW 46.96.230 and 2003 c 21 s 5 are each amended to
33 read as follows:

34 (1) A manufacturer or distributor shall pay a motor vehicle
35 dealer's claim for payment or other compensation due under a
36 manufacturer incentive program within (~~thirty~~) 30 days after
37 approval of the claim. A claim that is not disapproved or disallowed
38 within (~~thirty~~) 30 days after the manufacturer or distributor
39 receives the claim is deemed automatically approved. If the motor

1 vehicle dealer's claim is not approved, the manufacturer or
2 distributor shall provide the dealer with written notice of the
3 reasons for the disapproval at the time notice of disapproval is
4 given.

5 (2) A manufacturer may not deny a claim based solely on a motor
6 vehicle dealer's incidental failure to comply with a specific claim-
7 processing requirement that results in a clerical error or other
8 administrative technicality.

9 (3) A manufacturer may not implement an incentive program that
10 does not provide an equal opportunity for all motor vehicle dealers
11 to qualify based on consideration of dealership location and sales
12 volume, predetermines the price of a vehicle, limits eligibility
13 based on nonvehicle product penetration, or requires use of specific
14 software or service vendors to qualify.

15 (4) Notwithstanding the terms of a franchise agreement or other
16 contract with a manufacturer or distributor, a motor vehicle dealer
17 has one year after the expiration of a manufacturer or distributor
18 incentive program to submit a claim for payment or compensation under
19 the program.

20 (~~(4)~~) (5) Notwithstanding the terms of a franchise agreement or
21 other contract with a dealer and except as provided in subsection
22 (~~(5)~~) (6) of this section, after the expiration of one year after
23 the date of payment of a claim under a manufacturer or distributor
24 incentive program, a manufacturer or distributor may not:

25 (a) Charge back to a motor vehicle dealer, whether directly or
26 indirectly, the amount of a claim that has been approved and paid by
27 the manufacturer or distributor under an incentive program;

28 (b) Charge back to a motor vehicle dealer, whether directly or
29 indirectly, the cash value of a prize or other thing of value awarded
30 to the dealer under an incentive program; or

31 (c) Audit the records of a motor vehicle dealer to determine
32 compliance with the terms of an incentive program. Where, however, a
33 manufacturer or distributor has reasonable grounds to believe that
34 the dealer committed fraud with respect to the incentive program, the
35 manufacturer or distributor may audit the dealer for a fraudulent
36 claim during any period for which an action for fraud may be
37 commenced under applicable state law.

38 (~~(5)~~) (6) Notwithstanding subsection (~~(4)~~) (5)(a) and (b) of
39 this section, a manufacturer or distributor may make charge-backs to
40 a motor vehicle dealer if, after completion of an audit of the

1 dealer's records, the manufacturer or distributor can show, by a
2 preponderance of the evidence, that (a) the claim was intentionally
3 false or fraudulent at the time it was submitted to the manufacturer
4 or distributor, or (b) with respect to a claim under a service
5 incentive program, the repair work was improperly performed in a
6 substandard manner or was unnecessary to correct a defective
7 condition.

8 NEW SECTION. **Sec. 15.** Sections 1 through 7 of this act
9 constitute a new chapter in Title 46 RCW.

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