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HB 146 – Motor Vehicle Dealers; Applications; Insurance Requirements

The sale of vehicles in the State of Alaska vitally affects the general economy of the state and the public interest and the public welfare. In order to promote the public interest and the public welfare it is necessary to regulate and license dealers doing business in Alaska in order to prevent fraud, impositions, and other abuses upon its citizens and to protect and preserve the investments and properties of the citizens of Alaska.

The maintenance of strong and sound dealerships is essential to provide continuing and necessary reliable services to the consuming public.

As of late (the past 3-4 years), our used vehicle market has become overwhelmed by "dealers" who buy vehicles at the local dealer auction and from private parties. These "dealers" then proceed to sell said vehicles to the general public under the guise of a private seller, with no disclosure of the seller being a "licensed dealer," with no safety inspections, no disclosure of reconstructed title, and no disclosure of known defects. Furthermore, the title is often never placed in the "dealer's" name. Thus, after the deal is done, there is no evidence they were involved in the sale at all. This practice is known as "curbstoning."

Curbstoning allows for falsifying the selling price to avoid paying taxes, avoids a paper trail when issues arise, i.e., no odometer disclosure, no salvage/reconstructed title disclosure, and no vehicle history. Many curbstoners operate in groups, working out of their homes with no business location, using multiple cell phones, and title vehicles using the names of family, friends, and associates.

Curbstoning happens due to our anemic and ineffective dealer licensing requirements. Currently, a person can obtain a dealer license for a surety bond of 50K (cost of \$500), a \$50 registration fee, and a business license from the State of Alaska. There is no other state in the nation that has such lackadaisical dealer licensing requirements. The additional requirements of a certificate of liability insurance, Worker's Comp insurance, no recent felony convictions (past 10 years), a record of a valid phone number, and increasing the surety bond to the amount of \$250K, goes a long way towards making it more difficult for unscrupulous actors to obtain a dealer license and conduct business in an unethical, fraudulent, and deceptive manner.

Under our current application requirements, here's what can happen:

For \$550 and a State of Alaska business license, a curbstoner can obtain a dealer license and begin buying vehicles at discounted rates at the local "dealer only" auction. After buying vehicles with known defects, a curbstoner can sell that vehicle the same day on Craigslist. The title can be swapped into an associates name or left in the prior owner's name. The phone used by the curbstoner is a throwaway-phone (the number is

temporary). The vehicle was sold at the auction with frame damage or other known defects. Nothing is disclosed, not even the fact that the consumer is buying from an automotive dealer. The unwitting consumer pays cash and has no recourse or other manner to even file a complaint. The curbstoner sells the vehicle for \$5000 and falsifies the sale price to reflect \$2000 and avoid paying tax. The curbstoner then moves on to the next consumer. It happens again and again through the anonymity of selling on Craigslist and the ease with which a dishonest dealer can obtain license.

Another example that's played out over the past few years is a dealer sells multiple vehicles to another dealer and receives payment without providing titles (the titles are being held by the bank that provides a credit line for purchasing vehicles). The selling dealer plans to pay for the vehicles and get title but has financial difficulties and loses access to the flooring line funds. The bank takes back the vehicles from the dealer to whom they were sold. The dealer who purchased the vehicles now is out the money paid for the vehicles and decides to seek recompense from the selling dealer's bond. The bond pays \$50,000, which is only a fraction of what is owed; hence, the need to increase the bond to an amount that is adjusted to current market prices - this protects both dealers and consumers from losses.

House Bill 146 would add some additional requirements to provide reasonable standards for licensees ensuring worker and consumer protections.

A Dealer must:

- List a valid phone number on their application for licensure.
- Ensure that no person holding a five percent or greater interest in the business has, during the 5-year period immediately preceding the date of the application, been convicted of a felony involving fraud, embezzlement, or misappropriation of property.
- Provide a statement of understanding that if applicable workers' compensation insurance coverage required under AS 23.30 has been obtained.
- Require a copy of a certificate of insurance documenting that the applicant maintains liability insurance to protect consumers.

The bill would also address outdated and inadequate insurance and bonding requirements to protect consumers:

- Require Dealers to obtain and maintain a surety Bond in the amount of \$100,000.
- Require Dealers to maintain public liability and property damage insurance on the dealer's operations in the state in amounts of not less than \$50,000 for damage to property, \$100,000 for injury, including death, to any one person, and \$200,000 for injury, including death, to more than one person.

These statutory amendments will update Dealer licensing statutes to strengthen professional standards while also strengthening protections for Alaskan consumers.