

**ALASKA STATE LEGISLATURE**  
**SENATE TRANSPORTATION STANDING COMMITTEE**

February 2, 2012

1:05 p.m.

**MEMBERS PRESENT**

Senator Albert Kookesh, Chair  
Senator Joe Thomas, Vice Chair  
Senator Dennis Egan  
Senator Linda Menard  
Senator Charlie Huggins

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 125

"An Act relating to certain vehicles, including trailers; and relating to motor vehicle dealer advertising, motor vehicle dealer sales of used motor vehicles, motor vehicle sales contracts, motor vehicle service contracts, and motor vehicle sales financing."

- MOVED SB 125 OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: SB 125

SHORT TITLE: MOTOR VEHICLE TRANSACTIONS

SPONSOR(S): SENATOR(S) MEYER

04/12/11	(S)	READ THE FIRST TIME - REFERRALS
04/12/11	(S)	TRA, L&C
02/02/12	(S)	TRA AT 1:00 PM BUTROVICH 205

**WITNESS REGISTER**

SENATOR KEVIN MEYER  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Sponsor of SB 125

BOB PAWLOWSKI, Chief of Staff  
Senator Kevin Meyer

Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Provided a sectional analysis of SB 125.

MARTEN MARTENSEN, President  
Alaska Auto Dealers Association  
Anchorage, AK

**POSITION STATEMENT:** Testified in support of SB 125

GARY SLEEPER, Attorney  
Alaska Auto Dealers Association  
Anchorage, AK

**POSITION STATEMENT:** Offered to answer questions on SB 125.

ED SNIFFEN, Assistant Attorney General  
Civil Division  
Department of Law  
Anchorage, AK

**POSITION STATEMENT:** Answered questions related to SB 125.

#### **ACTION NARRATIVE**

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**CHAIR ALBERT KOOKESH** called the Senate Transportation Standing Committee meeting to order at 1:05 p.m. Present at the call to order were Senators Thomas, Huggins, Menard, and Chair Kookesh. Senator Egan arrived soon thereafter.

#### **SB 125-MOTOR VEHICLE TRANSACTIONS**

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SENATOR KOOKESH announced the consideration of SB 125.

SENATOR KEVIN MEYER, sponsor of SB 125, stated that this is a consumer protection bill. It will help consumers understand auto dealer comparison pricing and assist dealers in following state laws. SB 125 will update the "Alaska Auto Dealers Practices Act" by clarifying provisions in AS 45.25.400 - AS 45.25.990 concerning advertising new and used vehicles.

Motor vehicle dealers will be able to tell consumers when the dealer's asking price is less than the manufacturer's suggested retail price (MSRP), and that it reflects a savings or discount to the consumer. Dealers will be allowed to advertise price reductions on used cars and offer comparisons, provided the comparison price is taken from a national valuation publication.

The intent is to help consumers better understand the true market value of a car they may have interest in buying.

SB 125 also clarifies that the dealer's advertised price must include all the fees the dealer will charge other than fees charged by government agencies such as licensing fees and taxes. Finally, the bill clarifies the responsibilities of both the dealer and the customer with regard to vehicle title, financing, and contracts.

The bill has a zero fiscal note; no fiscal impact is anticipated for either the Department of Law or the [Division] of Motor Vehicles.

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BOB PAWLOWSKI, Chief of Staff to Senator Meyer, reviewed the sectional analysis for SB 125.

Sections 1-3 clarify the requirements for the manufacturer's pricing and disclosures and also allows for the exclusion of government costs such as licensing fees.

Section 4 provides national sources such as the Kelly Blue Book for price comparisons for used cars.

Section 5 provides guidance for accurately and verifiably identifying new and used vehicles to the consumer.

Section 6 states that the consumer must be provided the source of information on a used car whether it is from a previous dealer or private owner.

Sections 7-8 clarify when a vehicle can be shown and provides that disclosures must be displayed conspicuously.

Sections 9-11 deal with financing and the responsibilities of each party in the contract and purchase agreement.

Section 12 clarifies what constitutes a motor vehicle service contract.

Section 13 states the applicability of the statutory changes, and defines terms.

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SENATOR EGAN joined the committee.

SENATOR THOMAS asked for assurance that this wouldn't eliminate any information that is currently included on the Monroney sticker.

MR. PAWLOWSKI confirmed that the information listed today would continue to be listed; the MSRP is shown on the federal Monroney sticker.

SENATOR THOMAS referred to Section 12 and asked for an example of an impractical obligation that might be imposed on dealers relating to service contracts.

SENATOR MEYER suggested that the auto dealers might be able to answer in more detail.

MR. PAWLOWSKI deferred to the auto dealers.

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SENATOR MENARD highlighted that the fiscal note says the dealers will be allowed to offer "free" merchandise with the purchase of a vehicle. She asked what that might include.

MR. PAWLOWSKI deferred the question to the auto dealers.

SENATOR MEYER highlighted that Ed Sniffen with the Department of Law (DOL) could also add clarification.

SENATOR MENARD asked if it's a common occurrence for customers to qualify for financing on a car only to find out after the fact that the deal has "tanked."

MR. PAWLOWSKI replied he could follow up and get the information but he would encourage her to pose the question to the auto dealers today.

SENATOR MENARD noted the letter of support from the Alaska Auto Dealers Association (AADA).

MR. PAWLOWSKI confirmed that the AADA participated in multiple meetings with the attorney general's office, reviewed the sectional analysis, and verified their support for the bill.

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SENATOR MEYER added that a great deal of effort went into striking a balance between the dealers, the Department of Law, and the consumer.

SENATOR HUGGINS pointed out that Section 7 specifically prohibits the sale of the vehicle until the dealer has possession of all the required paperwork.

SENATOR MENARD said that would eliminate the issue of the consumer taking the vehicle home only to have to return it several days later.

MR. PAWLOWSKI confirmed that the dealer may have possession and show the vehicle but cannot sell the vehicle until the title is in hand.

SENATOR HUGGINS commented that this does not prohibit the dealer from allowing a consumer to drive the vehicle home; it's just that it cannot be sold.

MR. PAWLOWSKI deferred to the Department of Law for clarification.

CHAIR KOOKESH asked Mr. Martensen to incorporate answers to the committee's questions in his testimony.

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MARTEN MARTENSEN, President, Alaska Auto Dealers Association (AADA), said SB 125 is intended to clarify gray areas in current law. Different interpretations of the law have led to litigation and calls from Assistant Attorney General Sniffen warning dealer that they were not operating within the law. He confirmed that the AADA worked closely with Mr. Sniffen on this solution.

Responding to the previous questions, he explained that a dealer cannot sell a vehicle without a title in possession. In many instances the dealer has to pay off a lien when a customer trades in their car and it can take weeks before that title is reissued and sent to the dealer. Mr. Martensen said in his own business he would never allow someone to take that car home because he isn't technically the owner until he has the title.

He clarified that rebates or special incentives like interest rates aren't typically listed on the MSRP or Monroney sticker because those are subject to change at any time.

SENATOR MENARD said she also asked for an example of free merchandise.

MR. MARTENSEN said that last November his dealership included with the purchase of a car a set of snow tires and an auto

start. Current law does not prohibit including items at no cost but they cannot be identified as "free." This new provision will allow dealers to advertise that consumers are getting something for free.

SENATOR MENARD asked if the bells and whistles could be termed free merchandise.

MR MARTENSEN answered yes.

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SENATOR THOMAS asked for examples of the unnecessary and impractical obligations that are sometimes imposed on dealers relating to service contracts.

MR. MARTENSEN deferred the question to Mr. Sniffen at the Department of Law.

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GARY SLEEPER, Attorney, Alaska Auto Dealers Association, said he would prefer to answer questions after Mr. Sniffen had given his testimony.

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ED SNIFFEN, Assistant Attorney General, Department of Law (DOL), confirmed that considerable work went into crafting this bill. It accomplishes significant consumer protections and at the same time it helps the auto dealers by clarifying and streamlining some procedures.

He said his understanding of Section 12 is that it removes language about service contracts. The dealers said those transactions work differently than set out in statute and therefore make it complicated for dealers to comply. The remaining language protects consumers sufficiently and requires motor vehicle dealers to have a written service contract that contains all the essential provisions regarding administration of the contract.

With regard to the question about free merchandise, he said DOL's position in the past has been very strict; there's no free lunch and the price of the car is increased to cover the cost of the free merchandise. But things change, and now every industry offers free merchandise with certain purchases. It didn't make sense to single out the auto industry so that restriction was removed.

MR. SNIFFEN said Section 4 adds a new, substantive provision that deals with the ability of used car dealers to price compare with valuation publications like Kelly Blue Book. The comparison must be to a nationally recognized publication service, and the motor vehicle dealer must make the source for the comparison available to the consumer on request.

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SENATOR THOMAS read the new subsection (f) and asked if this was a requirement to have all the substantial options listed and available for comparison.

MR. SNIFFEN replied the intent is that it will be an apples-to-apples comparison. A car that's for sale with particular options has to have a Kelly Blue Book comparison with the same options. It would be a violation of the Unfair Trade Practice Act if a comparison was made between two cars that had different options. That would be deceptive, and DOL takes that very seriously.

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SENATOR EGAN stated that he was pleased to be a co-sponsor of SB 125.

SENATOR KOOKESH asked if there was any opposition to the bill.

SENATOR MEYER responded that there was a companion bill in the House and he wasn't aware of any opposition to either bill.

SENATOR KOOKESH closed public testimony and stated his desire to move the bill.

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SENATOR EGAN moved to report SB 125 from committee with individual recommendations and attached fiscal note.

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There being no further business to come before the committee, Chair Kookesh adjourned the Senate Transportation Standing Committee hearing at 1:34 p.m.