

HOUSE BILL NO. 164

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE PHILLIPS

Introduced: 2/18/93

Referred: Labor & Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to motor vehicle dealers and to agents for motor vehicle
2 buyers; and providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * Section 1. AS 08.66 is amended by adding a new section to read:

5 Sec. 08.66.015. SALE OF MOTOR VEHICLE WITH WARRANTY. A
6 person who does business as a dealer in the state may not offer to sell or sell a motor
7 vehicle as a new or current model motor vehicle having a manufacturer's warranty
8 unless the dealer has a current sales and service agreement with the manufacturer and
9 the agreement requires the dealer, upon demand of the motor vehicle buyer, to perform
10 or arrange for, within a reasonable distance of the dealer's place of business in the
11 state, the repair and replacement work required of the manufacturer under the warranty.

12 * Sec. 2. AS 08.66.030 is amended to read:

13 Sec. 08.66.030. FORM OF APPLICATION. The Department of Public Safety
14 shall prescribe and furnish the form of application for dealer registration. The

1 application must contain

2 (1) the name under which the business is conducted;

3 (2) the location of business;

4 (3) the name and address of all persons having an interest in the
5 business [,] and, in the case of a corporation, the application shall contain the name
6 and address of the two principal officers;

7 (4) the name and make of all vehicles handled;

8 (5) whether or not used vehicles are handled;

9 (6) a statement that the applicant is a bona fide dealer in motor
10 vehicles, trailers, or semi-trailers with an established business at the location given;

11 (7) if the applicant sells a motor vehicle as a new or current model
12 motor vehicle having a manufacturer's warranty, the name of the manufacturer
13 of the motor vehicle and the date and duration of the applicant's sales and service
14 agreement with the manufacturer;

15 (8) other information the Department of Public Safety requires to
16 administer this chapter.

17 * Sec. 3. AS 08.66.080 is amended to read:

18 Sec. 08.66.080. PENALTIES. A dealer who fails to register and file a bond
19 as required by this chapter shall pay a penalty of \$100. A dealer who wilfully violates
20 a provision of this chapter is guilty of a class B misdemeanor [, AND UPON
21 CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN \$300].

22 * Sec. 4. AS 08.66.090 is amended to read:

23 Sec. 08.66.090. DEFINITIONS [DEALER DEFINED]. In this chapter,

24 (1) "current model motor vehicle" means a motor vehicle that is
25 the current model made by the manufacturer and that has been sold one or more
26 times before the dealer proposes to sell it;

27 (2) "dealer" means a person, or an agent, broker, or salesperson
28 [SALESMAN] of a person who is engaged in buying, selling, or dealing in new or
29 used motor vehicles, trailers, or semi-trailers in the state.

30 * Sec. 5. AS 45.45 is amended by adding new sections to read:

31 Sec. 45.45.450. BUYER'S AGENT CONTRACT REQUIRED. (a) A person

1 may not do business in the state by negotiating on behalf of a buyer the purchase of
2 a motor vehicle from a motor vehicle dealer unless the person has a written contract
3 with the buyer.

4 (b) The contract required by (a) of this section must include a description of
5 the specific services to be provided by the buyer's agent, the date when the buyer's
6 agent will provide the services, and a description of the fees that the buyer's agent will
7 charge, including any fee that the buyer is to pay before the motor vehicle is delivered
8 to the buyer.

9 Sec. 45.45.455. FEES OF BUYER'S AGENT. (a) A buyer's agent may not
10 collect a fee from a buyer before the agent and the buyer enter into the contract
11 required by AS 45.45.450.

12 (b) A buyer's agent may not calculate the fee of the buyer's agent as a
13 percentage of the motor vehicle purchase price or of the savings achieved by the agent
14 for the buyer on the purchase of the motor vehicle.

15 (c) Until the motor vehicle is delivered to the buyer, a buyer's agent shall hold
16 in trust in a bank account a fee that the agent receives before the buyer receives the
17 motor vehicle.

18 Sec. 45.45.460. OWNERSHIP INTEREST PROHIBITED. A buyer's agent
19 may not own an interest in the motor vehicle that is the subject of the purchase that
20 the agent is negotiating for the buyer.

21 Sec. 45.45.465. CERTAIN COMPENSATION PROHIBITED. A buyer's
22 agent may not accept a rebate, kickback, commission, or other form of compensation
23 from a financial institution, motor vehicle dealer, or other person, except the buyer, on
24 a motor vehicle purchase that the agent negotiates for a buyer.

25 Sec. 45.45.470. DUAL AGENCY PROHIBITED. When representing a buyer,
26 a buyer's agent may not act as an agent for the motor vehicle dealer.

27 Sec. 45.45.475. RECORDS OF BUYER'S AGENT. A buyer's agent shall
28 maintain complete records of each motor vehicle purchase the agent negotiates,
29 including the purchase arrangements and monetary transactions. The records must
30 include

31 (1) copies of advertisements, brochures, and pamphlets issued, used, or

- 1 distributed by the buyer's agent during the sales transaction;
2 (2) the original contract between the buyer's agent and the buyer;
3 (3) copies of any purchase orders issued by the buyer's agent;
4 (4) evidence of the delivery of the motor vehicle to the buyer; and
5 (5) copies of any service agreement between the manufacturer and the
6 motor vehicle dealer.

7 Sec. 45.45.480. PENALTY. A person who violates AS 45.45.450 - 45.45.490
8 is guilty of a class B misdemeanor.

9 Sec. 45.45.490. DEFINITIONS. In AS 45.45.450 - 45.45.490,

10 (1) "buyer's agent" means a person who does business in the state by
11 negotiating on behalf of a buyer the purchase of a motor vehicle from a motor vehicle
12 dealer;

13 (2) "motor vehicle dealer" means a person who is engaged in the
14 business of buying, selling, or dealing in new or used motor vehicles and maintains an
15 inventory of motor vehicles for sale.

16 * Sec. 6. AS 45.50.471(b) is amended by adding new paragraphs to read:

17 (33) violating AS 08.66 (motor vehicle dealers);

18 (34) violating AS 45.45.450 - 45.45.490 (motor vehicle buyers' agents).

19 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).