

SB

105

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: SB 105

Revision Date: _____ Dept. Affected: Public Safety
 Title: "An Act relating to motor vehicle dealers and agents." BRU: Motor Vehicles
 Component: Field Services
 Sponsor: Senator Taylor
 Requestor: Senator Taylor COMPONENT SERIAL NO. 502

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

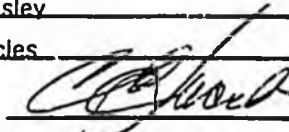
POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY 93) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact upon the Division of Motor Vehicles is anticipated.

Prepared By: Juanita Hensley Phone: 465-4361
 Division: Motor Vehicles Date: 2/23/93
 Approved by Commissioner:  Date: 2/23/93
 Agency: Richard L. Burton, Dept. of Public Safety

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 19, 1993

FURTHER REFERRALS:

Date of Committee Action: 4-7-93

The JUDICIARY Committee considered:

CSSR 105 (JUD)am

CS FOR SENATE BILL NO. 105 (JUD) am

MOTOR VEHICLE DEALERS & BUYERS' AGENTS

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

RECOMMENDATIONS:

be replaced with H CS ~~A~~ CS SB 105 (JUD) the same title a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) Public Safety 2/26/93

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>Jeanette James</i>		<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>		<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>Brian S. Porter</i>	<input checked="" type="checkbox"/>				

Brian S. Porter
 CHAIRMAN'S SIGNATURE

Rep. Brian Porter, Chairman

House Judiciary Committee

Date: April 7, 1993

Place: Capitol Room 120

SB 105 Motor Vehicle Dealers
 HB 128 Early Acknowledgement of Paternity
 HB 122 Child Custody Procedures
 HB 65 Financial Administration of State Government

Subject of Meeting: HB 119 Use of Day Fines
 HB 188 Forfeiture of Property

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
STEVEN ALLWINE	ALASKA AUTO DEALERS	8725 Mallard St Juneau	99801		789-1386	<input checked="" type="radio"/> Y <input type="radio"/> N	House CS/SB 105
Dan Sturdy	AK DDL	PO Box 21149, Juneau	99802		465-6003	<input checked="" type="radio"/> Y <input type="radio"/> N	CS HB 65
✓ ART SWANSON	CARREYS	303 K ST	99501		244-0547	<input checked="" type="radio"/> Y <input type="radio"/> N	HB 119
① CHRIS CHRISTENSEN	CONCRETE SYSTEM	303 K ST MCH	99501		264-8228	<input checked="" type="radio"/> Y <input type="radio"/> N	HB 122
✓ Cheryl FRASCA	OMB	Bx 110020 JUNEAU	99811		465-4681	<input checked="" type="radio"/> Y <input type="radio"/> N	HB 65
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
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8-LS0535NR
Bannister
4/6/93

HOUSE CS FOR CS FOR SENATE BILL NO. 105(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS TAYLOR, Duncan

REPRESENTATIVE Phillips

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. (a) A person who does
6 business as a dealer in the state may not offer to sell or sell a motor vehicle as a new
7 or current model motor vehicle unless the motor vehicle retains the manufacturer's
8 certificate of origin.

9 (b) A person who does business as a dealer in the state may not offer to sell
10 or sell a motor vehicle as a new or current model motor vehicle having a
11 manufacturer's warranty unless

12 (1) the dealer has a current sales and service agreement with the
13 manufacturer and the agreement requires the dealer, upon demand of the motor vehicle
14 buyer, to perform or arrange for, within a reasonable distance of the dealer's place of

1 business in the state, the repair and replacement work required of the manufacturer
2 under the warranty; or

3 (2) the dealer offers to give the buyer a rebate to cover the repair and
4 replacement work that the dealer cannot perform or arrange for within a reasonable
5 distance of the dealer's place of business.

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

7 Sec. 08.66.030. FORM OF APPLICATION. The Department of Public Safety
8 shall prescribe and furnish the form of application for dealer registration. The
9 application must contain

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

11 (2) the location of business;

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

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

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

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

19 (7) if the applicant sells a motor vehicle as a new or current model
20 motor vehicle having a manufacturer's warranty, the name of the manufacturer
21 of the motor vehicle and the date and duration of the applicant's sales and service
22 agreement with the manufacturer;

23 (8) other information the Department of Public Safety requires to
24 administer AS 08.66.010 - 08.66.090 [THIS CHAPTER].

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

26 Sec. 08.66.080. PENALTIES. A dealer who fails to register and file a bond
27 as required by AS 08.66.010 - 08.66.090 [THIS CHAPTER] shall pay a penalty of
28 \$100. A dealer who knowingly [WILFULLY] violates a provision of AS 08.66.010 -
29 08.66.090 [THIS CHAPTER] is guilty of a class B misdemeanor [, AND UPON
30 CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN \$300].

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

1 Sec. 08.66.090. DEALER DEFINED. In AS 08.66.010 - 08.66.090, [THIS
2 CHAPTER] "dealer" means a person, or an agent, broker, or salesman of a person who
3 is engaged in buying, selling, or dealing in new or used motor vehicles, trailers, or
4 semi-trailers in the state, but does not include a buyer's agent when acting in the
5 capacity of a buyer's agent. In this section, "buyer's agent" has the meaning
6 given in AS 08.66.350.

7 * Sec. 5. AS 08.66 is amended by adding new sections to read:

8 ARTICLE 2. BUYERS' AGENTS.

9 Sec. 08.66.200. REGISTRATION OF BUYER'S AGENT. A person may not
10 do business in the state by negotiating on behalf of a buyer the purchase of a motor
11 vehicle from a motor vehicle dealer unless the person is registered with the Department
12 of Public Safety.

13 Sec. 08.66.210. APPLICATION, BOND, AND FEE. (a) In order to register
14 under AS 08.66.200, a person shall file with the department an application, a bond
15 required by AS 08.66.240, and an application fee established by the department by
16 regulation.

17 (b) The department shall prescribe and furnish the form of application for the
18 registration. The application must contain

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

20 (2) the address of the main office of the business;

21 (3) the name and address of all persons having an interest in the
22 business, and in the case of a corporation the application shall contain the name and
23 address of the two principal officers; and

24 (4) other information the department requires.

25 Sec. 08.66.220. DEPARTMENT APPROVAL. The department shall approve
26 an application for registration under AS 08.66.210 if the application contains the
27 information required by AS 08.66.210 and the bond complies with AS 08.66.240.

28 Sec. 08.66.230. RENEWAL OF REGISTRATION. A buyer's agent shall
29 renew the registration required by AS 08.66.200 every two years by filing with the
30 department a request for renewal, the bond required by AS 08.66.240, and a renewal
31 fee established by the department by regulation.

1 Sec. 08.66.240. BOND. (a) An applicant for registration under AS 08.66.210
2 or for renewal of a registration under AS 08.66.230 shall file with the application or
3 request for renewal, and shall maintain in force while registered, a \$10,000 bond that
4 is in favor of the state and that is executed by an authorized corporate surety approved
5 by the department.

6 (b) Instead of the corporate surety bond required by (a) of this section, the
7 department may, in the department's sole discretion, accept a bond in the same amount
8 with at least two individual sureties. A surety shall provide as security real property
9 that has a fair market value that is equal to two times the amount of the bond. The
10 department shall investigate as necessary the actual financial responsibility of the
11 individual sureties.

12 (c) The bond required by this section is conditioned on the applicant
13 complying with AS 08.66.200 - 08.66.350 and not committing fraud or making
14 fraudulent representations in the course of doing business as a buyer's agent.

15 (d) A surety may cancel the bond after giving the department 30 days' advance
16 written notice. Cancellation does not relieve a surety of liability arising on the bond
17 from a purchase negotiated by the bonded buyer's agent before cancellation or a
18 liability that accrues against the bond before cancellation. The department shall retain
19 the cancelled bond on file.

20 Sec. 08.66.250. ACTION ON BOND. If a person suffers loss or damage by
21 reason of a buyer's agent, or a person doing business as a buyer's agent, violating
22 AS 08.66.200 - 08.66.350 or committing fraud or making fraudulent representations
23 in the course of doing business as a buyer's agent, the person may bring an action
24 against the buyer's agent and the surety upon the bond. The aggregate liability of the
25 surety may not exceed the amount of the bond.

26 Sec. 08.66.260. BUYER'S AGENT CONTRACT REQUIRED. (a) Before a
27 buyer's agent negotiates on behalf of a buyer the purchase of a motor vehicle from a
28 motor vehicle dealer, the buyer's agent must have a written contract with the buyer.

29 (b) The contract required by (a) of this section must include a description of
30 the specific services to be provided by the buyer's agent, the date when the buyer's
31 agent will provide the services, and a description of the fees that the buyer's agent will

1 charge, including any fee that the buyer is to pay before the motor vehicle is delivered
2 to the buyer.

3 Sec. 08.66.270. PURCHASE AGREEMENT. A buyer's agent shall arrange
4 for the buyer's purchase agreement with the dealer to provide all warranty information,
5 including the warranty expiration date, mileage limitations, and other restrictions. The
6 warranty information must be specific to the motor vehicle being purchased.

7 Sec. 08.66.280. FEES OF BUYER'S AGENT. (a) A buyer's agent may not
8 collect a fee from a buyer before the agent and the buyer enter into the contract
9 required by AS 08.66.260.

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

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

16 Sec. 08.66.290. OWNERSHIP INTEREST PROHIBITED. A buyer's agent
17 may not own an interest in the motor vehicle that is the subject of the purchase that
18 the agent is negotiating for the buyer.

19 Sec. 08.66.300. CERTAIN COMPENSATION PROHIBITED. A buyer's
20 agent may not accept a rebate, kickback, commission, or other form of compensation
21 from a financial institution, motor vehicle dealer, or other person, except the buyer, on
22 a motor vehicle purchase that the agent negotiates for a buyer.

23 Sec. 08.66.310. DUAL AGENCY PROHIBITED. When representing a buyer,
24 a buyer's agent may not act as an agent for the motor vehicle dealer.

25 Sec. 08.66.320. RECORDS OF BUYER'S AGENT. A buyer's agent shall
26 maintain complete records of each motor vehicle purchase the agent negotiates,
27 including the purchase arrangements and monetary transactions. The records must
28 include

29 (1) copies of advertisements, brochures, and pamphlets issued, used, or
30 distributed by the buyer's agent during the sales transaction;

31 (2) the original contract between the buyer's agent and the buyer;

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

7 Sec. 08.66.330. PENALTY. A person who with criminal negligence violates
8 AS 08.66.200 - 08.66.350 is guilty of a class B misdemeanor.

9 Sec. 08.66.350. DEFINITIONS. In AS 08.66.200 - 08.66.350,

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) "department" means the Department of Public Safety;

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

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

18 (33) violating AS 08.66.010 - 08.66.090 (motor vehicle dealers);

19 (34) violating AS 08.66.200 - 08.66.350 (motor vehicle buyers' agents).

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

Alaska State Legislature



Senate Majority Leader
Chair, Judiciary Committee
Vice Chair, Community &
Regional Affairs

Member, State Affairs Committee
Committee on Committees
Western States Legislative Forestry Task Force
Legislative Council

State Capitol
Juneau, Alaska 99801-1182
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Fax: (907) 465-3922

352 Front Street
Ketchikan, Alaska 99901
(907) 225-8008
Fax: (907) 225-0713

Senator Robin L. Taylor

MEMORANDUM

**TO: Representative Brian Porter
House Judiciary Committee**

FROM: Senator Robin L. Taylor *R.L.T.*

DATE: 3/22/93

REF: Hearing Request - Senate Bill 105

Mr. Chairman:

Please consider this my formal request for a hearing before the House Judiciary Committee on Senate Bill 105.

SB 105 passed the Senate on reconsideration on March 18 on a vote of Y18 N- E2 and was transmitted to the House.

In light of the bipartisan support for this bill in the Senate and the fact that your's is the only committee of referral in the House, I ask that you schedule this bill at your earliest convenience.

Thank you in advance for your consideration.

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

Alaska State Legislature

Senate Majority Leader
Chair, Judiciary Committee
Vice Chair, Community &
Regional Affairs

Member, State Affairs Committee
Committee on Committees
Western States Legislative Forestry Task Force
Legislative Council



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Senator Robin L. Taylor

SPONSOR STATEMENT

SENATE BILL 105

Before the Senate Labor and Commerce Committee

February 25, 1993

Mr. Chairman:

On January 3rd of this year, the Ketchikan office manager for a Seattle-based auto broker got a message on her answering machine. "Don't go into the office tomorrow, we're closed".

Thus began the saga of an automobile broker who went out of business without notice, leaving at least 30 people in southern Southeast either without the car they thought they had purchased or without legal title to a vehicle that had been delivered. Many were out dollars.....some were stuck in a nightmare that had started with the dream of owning their first new car.

That part of the saga will eventually be settled in the bankruptcy or criminal courts. The legislation before you today is an attempt to see that the saga is never repeated.

SB105 establishes a new definition in state law, that of a buyer's agent. It would regulate the activities of such an agent and define the difference between such an agent and a licensed dealer. The bill offers real protection in its requirement that any fees collected by the agent be held in escrow until the vehicle is delivered. The buyer's agent is required to maintain complete records of each sale, including evidence of delivery. Criminal penalties are provided.

I ask for your support of Senate Bill 105.

KETCHIKAN DAILY NEWS

L 58 No. 004, RUPD 293-9404, 16 PAGES

Ketchikan, Alaska, Wednesday, January 6, 1993

50 Cents

Auto dealer closes: Buyers out cars, cash, titles?

By JENNIFER STRINER
Daily News Staff Writer

Ketchikan and area residents who recently bought cars from the United Auto Exchange might have problems getting their money back, or their keys, or clear title to the car they have, according to recently laid off UAE worker Evelyn Yoder.

UAE has been working as a car dealer in Ketchikan, buying cars for local residents through dealers in Seattle. Its office in Ketchikan is closed, and its office in Seattle has an answering machine that disconnects callers.

Yoder, the office manager for the Ketchikan office for the last year and a half, said she was told Sunday that she was out of a job and that the company was closed by owner Bill Edmondson —

by her answering machine.

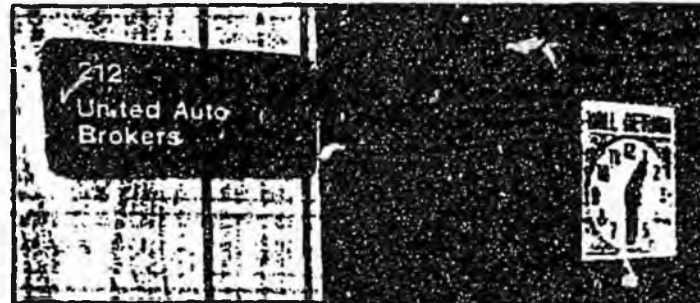
"Bill called and left a message on my answering machine and said 'Don't go into the office tomorrow. We're closed.'"

Yoder said she hasn't been able to get in touch with anyone from UAE since then and said the people who have bought cars within the last 90 days might be in trouble.

"It's bad. It's real bad. There's going to be people out there who are going to lose their cars," Yoder said. "... If (people) did buy a car within the last 90 days, they're not going to get it."

Yoder said that is generally true for people who have paid on it, although she said the dealers in Seattle understand the situation and are trying to work with the people.

As an example, she said, somebody in Ketchikan who paid cash for a car will



The sign on the door notwithstanding, United Auto Exchange workers were told not to report to work this week as the Seattle-based dealer reportedly went out of business.

Staff photo by Nell Anderson

likely lose the cash and the car. Somebody else who paid cash for the car, and has received the car, but not the title, may still be out both. No title to the car

indicates that UAE did not pay the dealer in Seattle for the car. Dealers hold title to the cars until they are paid.

In that case, the dealer may work with the person, but they may also reclaim the car, again leaving the customer cash and car-less.

"People who paid cash for their cars are really in trouble," Yoder said.

She said she is trying to get in touch with the people who will be having problems and stressed that she is not trying to avoid them, although she isn't sure what she can do for them.

"I am available. I want to talk to them," Yoder said. "The sad thing is I don't have a job."

Yoder said that she doesn't have an exact number of people who will be affected by the closure, but estimated based on past business, there will be

about 30 to 35 people who will "suffer financially" in the Ketchikan area, including Prince of Wales Island and Metlakatla.

Yoder said she still has been unable to contact anyone from UAE.

According to Diane Blake of the Better Business Bureau in Seattle, the listing for the company was changed to out of business Tuesday.

Blake said the change meant either the mail for the business is being returned or the phone has been disconnected.

Blake said she had gotten calls about the company Tuesday, but said since it is listed as out of business, there is nothing the bureau could do.

Blake said anyone with any further inquiries about the company or anyone See 'Auto exchange,' page A-1

Ketchikan Daily News

Wednesday, January 6, 1993

Local

A-3

Auto exchange

who has lost money to the company, should contact the Washington State's Attorney General's office.

Former UAE salesman Vinnie Williams said he was called on Sunday by Edmondson and told he was out of a job.

"He basically said about two more words to me and then hung up," he said. Williams is very upset by the sudden closure, saying most of his customers were friends. Some were even his in-laws.

"It's very upsetting to me," he said. Like Yoder, Williams said he didn't have any number through which he could get in touch with the company.

Williams, who worked for the company about a month, said he didn't have any idea the company was in trouble

until late last week, when a friend who had bought a car through the company, said the car he traded in was never paid off.

The car is still in his friend's name, Williams said, so his friend is having to continue the car payments on his old car, and his new car.

Yoder said she was familiar with the case, adding the car was since sold to someone in Juneau who paid for the car but hasn't received it.

Yoder said she would suggest to anyone who paid for a car, to get in touch with the dealer the car was bought from for information about whether the car has been paid off. And if the car was financed through the credit union her

company was using, Alaska USA Federal Credit Union, she suggested the person get in contact with the credit union.

Peter Jensen of Ketchikan had just bought a 1993 Subaru through the company. Jensen had given UAE a down payment of \$4,800 in a money order that was cashed Dec. 11 for a \$16,800 1993 Subaru.

Jensen said his wife had been assured by Edmondson that the car would arrive by Boyer Bergs Jan. 4.

However when the couple went to pick up the car, they were told by Boyer that no such car existed.

Jensen said when he contacted the dealer the company had bought the car

from, he was told by one of the salesmen that the car was still on the lot, and couldn't be shipped until it was paid for. Jensen said the dealer also said that there are two cars currently in Ketchikan that were shipped, but which don't have titles.

Jensen said he has reported the case to the police in Ketchikan and has a call in to the Attorney General in Alaska.

Jensen said the dealer in Washington did offer to sell the car to him for about \$1,000 less than the original deal through UAE, but said he would have to find more money for a down payment.

As it is, Jensen said he didn't know if or when he would see his original down payment.

Continued from page A-1

Taylor

reduced that will be the first time in the history of the state," Taylor said.

But Taylor said he had his concerns about Hckel.

Other legislative activities will include a bill Taylor is

afford to pay for poor women to have

Weather

Lt. J. Williams

Tuesday High Temperature	28
Tuesday Low Temperature	16
Tuesday Precipitation	0.00
Normal High	37
Normal Low	28
Record High	52 - 1961
Record Low	5 - 1982
Tuesday Sunrise	8:28 a.m.
Tuesday Sunset	3:36 p.m.
Wednesday Sunrise	8:28 a.m.

Windy

TUESDAY	
Low	3:34 a.m. 5.4 FT
High	9:50 a.m. 13.5 FT
Low	4:38 p.m. 0.8 FT
High	11:04 p.m. 13.0 FT
WEDNESDAY	
Low	4:27 a.m. 4.7 FT
High	10:41 a.m. 16.5 FT
Low	5:23 p.m. -1.2 FT
High	11:49 p.m. 14.2 FT

TESTIMONY

rain. Light snow at night, a 50% chance of rain and snow. Highs in the lower 30s. Snow. Highs

east Alaska: (Weather information provided by the National Weather Service on Alaska Island Precipitation, highest

MAR 2 REC'D

Box 8175
Ketchikan, Alaska 99901
February 25, 1993

Dear Robin,

Thank you for all the help you've given our family on both the student loan issue and for the listening ear about the car situation. I knew you would do what you could. You always have done that before. Now I see that you've introduced a bill to deal with such scoundrels as Bill Edmondson. I appreciate your introduction of that, and I am certainly supportive. However, I'm not sure \$1000 is a deterrent for a fellow like Bill. The idea of a written contract would certainly have some more teeth in a court of law than what we have. It's my opinion that the bonding should be increased also for a dealer who deals in new cars at all. I wouldn't want to in any way deter a person from starting a broker business, but Bob's family who deal in asphalt sometimes have to put up \$1,000,000 before they do a large paving job. Mr. Edmondson was only bonded for \$10,000 and \$15,000 in the states of Washington and Alaska, and that doesn't even bear the burden of the cost of one new automobile. I don't know if the bonding is a legislative issue, but perhaps it is. It might even be added as an amendment on S.B. 105. Just give it some thought.

I hope all is going well for you. Are things any different in the Senate? You know, the governership is the next step up. 😊 Perhaps it's a smaller group to work with anyhow.

Our car situation hasn't changed except that we're getting less fearful of the situation and driving it more. I can't believe that coot is still hiding out. It's been three months now. His lawyer must know where he's hiding. I wrote him a letter in care of his lawyer, and I said some terrible things I was feeling at the time, and the letter never came back, so I'm assuming he got it. Anyhow, it's about time to write again.

In your testimony for this bill and for putting some teeth into this situation--should testimony be necessary--you might want to tell about a man in Hydaburg who bought one of Edmondson's autos. He got a new truck I believe it was. He was scared to drive it, and the fear and stress pervaded his household, causing his wife to leave because she could no longer stand the stress. He hired a ~~lawyer~~ _y

lawyer here in town. He paid him money he didn't have. His wife left and he was so stressed out about that that he's suicidal. The lawyer told him he had to pay freight charges to get his old automobile shipped back from Seattle. He's now paying payments on his old car as well as his new car, and he's going crazy. That's sure testimony if I ever heard it. He's hurting for sure.

I'm really grateful to you for everything you've done for me personally and for the half-time teachers. In one more year, I'm supposed to be vested, and we're looking to move then. Our kids are both in the lower 48, and Jeremy graduates this year. Ketchikan seems to be changing in ways we'd rather not see---or are we changing.???

School is going fine. I'm actually working pretty much full-time, although the afternoon is for less than aide's pay. At least they're paying me something. It keeps me busy.

Jeremy has been accepted at the three colleges of his choice and is now busy applying for scholarships. We're going to try and send him through without the benefit of the student loan, so we won't get into that again. We may not make it, but we're going to try.

My very best good wishes and prayers go with you today and every day.

Sincerely,

Carolyn F.

Chapter 308-66 WAC

MOTOR VEHICLE DEALERS AND SALESMEN

WAC

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308-66-225	Remanufactured vehicles in whole or in part.
308-66-230	Titles—Combination tow truck operator-dealer.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

308-66-130	Salesman's license application. [Order MV 170, § 308-66-130, filed 7/16/73; Order 70-08-04, § 308-66-130, filed 8/6/70; Order 2, § 308-66-130, filed 1/29/68.] Repealed by 87-01-016 (Order DLR 115), filed 12/9/86. Statutory Authority: RCW 46.70.160 and 1986 c 199 § 1.
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WAC 308-66-110 Definitions. For the purpose of administering chapter 46.70 RCW, the following terms shall be construed in the following manner:

(1) "Offering" the sale of a vehicle shall include the distribution by any means of a list, with or without prices, of vehicles for sale.

(2) "Soliciting" the sale of a vehicle shall include an offer to effect the purchase or sale of a vehicle on behalf of another person.

(3) "Normal business hours" or "reasonable times" shall include, but not be limited to, the hours from 10:00 a.m. through 4:00 p.m. for five days each week. All hours during which the place of business is open for the purpose of bartering, trading or selling vehicles are normal business hours or reasonable times as long as the dealer is open for business at regular intervals. Whenever a dealer closes his place of business during normal business hours, a sign must be posted on the main door of the business stating the time that he will next be open for business or where he may be contacted.

(4) An "employee" of a dealer is one who is paid compensation for a minimum of sixteen hours each week

and/or appears on the record of an employer as an employee for whom social security, withholding tax, and all deductions required by law have been made.

(5) A "bona fide full-time employee" is one that is employed by the dealer for a minimum of thirty-five hours a week and appears on the records of an employer as an employee for whom social security, withholding tax, and all deductions required by law have been made.

(6) A "broker" shall mean any person, partnership, corporation, or association acting independently, who for a commission, fee or any other form of compensation arranges or engages in the wholesale or retail purchase, sale or lease with option to purchase, of a vehicle.

(7) An "employee identification card" is a card that may be issued by a licensed dealer to an employee, identifying such employee as being in the employ of such dealer. The department will issue blank identification cards to licensed dealers on request.

(8) A "demonstration permit" is a permit issued by a dealer to a prospective customer entitling the prospective customer to operate a particular vehicle for demonstration purposes.

(9) Current service agreement - The agreement between a vehicle manufacturer or vehicle distributor and a seller, stipulating that the seller will provide warranty adjustments for the owners of said manufacturer's or distributor's new vehicles which qualify for adjustments under the said manufacturer's or distributor's warranty.

(10) New vehicle warranty - The warranty extended by a manufacturer or distributor to the first retail purchaser.

(11) "Closing" shall mean the process of completion of sale transaction.

(12) "Completion of sale" shall mean purchaser has possession of vehicle, all liens against vehicle are paid, seller has sale proceeds, and warranty of title to vehicle has been accomplished.

(13) "Listing" shall mean a contract between a seller of a used mobile home and a listing dealer for the dealer to locate a willing purchaser of that listed used mobile home.

(14) "Seller," as it relates to listing dealers, shall mean a person who lists a used mobile home with a listing dealer.

(15) "Purchaser," as it relates to listing dealers, shall mean a person who agrees to buy a used mobile home listed through a listing dealer.

(16) "Consignment" shall mean an arrangement whereby a motor vehicle dealer accepts delivery or entrustment of a vehicle and agrees to sell the vehicle on behalf of another.

(17) "Consignee" shall mean a vehicle dealer who accepts delivery or to whom a motor vehicle is entrusted for the purpose of sale on behalf of another.

(18) "Consignor" shall mean a person who delivers or entrusts a vehicle to a dealer for the purpose of sale.

(19) "Remanufactured" shall mean to remake or re-process into a finished product by a large scale industrial process. [Statutory Authority: RCW 46.70.160 and 1986 c 199 § 1. 87-01-016 (Order DLR 115), § 308-66-110, filed 12/9/86; Order MV 170, § 308-66-110, filed 7/16/73; Order 70-08-04, § 308-66-110, filed 8/6/70; Order 69-1, § 308-66-110, filed 8/28/69; Order 2, § 308-66-110, filed 1/29/68.]

WAC 308-66-120 Dealer's license application. (1) Each application shall contain in addition to the information required by RCW 46.70.041:

(a) The names and addresses of all owners of ten percent or more of the assets of the firm and the names and addresses of managing employees;

(b) The name and address of the principal place of business of the firm;

(c) The names and addresses of each and every subagency of the firm, if any;

(d) A current balance sheet of assets and liabilities which shall have been prepared within ninety days of its submission[;][:]

(e) A statement of whether or not the applicant or any partner, officer, director, owner of ten percent or more of the assets of the firm, or managing employee, was the holder of a license issued pursuant to chapter 46.70 RCW which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of the suspension have not been fulfilled;

(f) A detailed list of all dealerships previously operated by each person named on the application and with which each person presently or was formerly connected or employed.

(2) An applicant shall appear for a personal interview if requested by the department.

(3) The department may require a credit report for each party named on each application for a dealer's license.

(4) An applicant shall provide as evidence of leasehold or ownership interest of business location either:

(a) A copy of the rental or lease agreement between the applicant and landowner showing the business location by commonly known address, or

(b) A copy of the county assessor's record showing ownership of the business location, the applicant's name and the commonly known address.

(5) The bank reference for verifying financial condition consisting of:

(a) The name of applicant's bank, a person to contact at that bank concerning applicant's financial condition, or

(b) A letter of credit current within last 90 days, or

(c) A flooring agreement, if with a financial institution, or

(d) A line of credit with a financial institution.

(6) The department may require an applicant for a vehicle dealer license to provide evidence that the business location conforms to all zoning and land use ordinances.

(7) A corporation applicant shall provide the corporation number and corporation name issued by the secretary of state's office authorizing the company to do business within this state.

(8) The name and address on the license application and all required supporting documents must be the same. The sign at the certified location must identify the doing business as name (dba), if any, and that name shall appear on all documents as the applicant's name. The business telephone listing must also reflect the business name or the doing business as name. [Statutory Authority: RCW 46.70.160 and 1986 c 199 § 1. 87-01-016 (Order DLR 115), § 308-66-120, filed 12/9/86; Order MV 170, § 308-66-120, filed 7/16/73; Order 70-08-04, § 308-66-120, filed 8/6/70; Order 69-1, § 308-66-120, filed 8/28/69; Order 2, § 308-66-120, filed 1/29/68.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 308-66-135 Expiration of dealer, salesperson and manufacturer licenses. (1) Any dealer, vehicle salesperson and vehicle manufacturer's license shall expire twelve consecutive months from the date of issuance for purposes of staggered licensing. During the initial licensing period the renewal dates shall be established by a random alphabetical selection commencing with a minimum license period of six months, extended month by month to a maximum of eighteen consecutive months as determined by the random selection process. Upon completion of the initial staggering of these licenses each subsequent renewal period shall be twelve consecutive months from the established date of the staggered issuance, subject to the provisions of chapter 46.70 RCW.

(2) Motor vehicle dealer license plates and vehicle manufacturer license plates shall expire on the same date as the expiration of the license. [Statutory Authority: 1985 c 109 §§ 2, 4, 6 and 8, RCW 46.80.140, 46.70.080 [46.79.080], 46.70.160, 46.76.070 and 46.16-.225. 86-08-028 (Order D.L.R.-091), § 308-66-135, filed 3/26/86.]

WAC 308-66-140 Place of business and places of business. (1) A dealer shall advise the department of each and every:

(a) Name under which the firm does business, and

(b) Location at which the firm does business.

If there is any addition, deletion or change in the above, the dealer shall so inform the department within ten days of such action.

(2) A dealer shall designate one name and one location as the principal name and principal place of business of the firm.

(a) All other locations that are physically and geographically separated from the principal place of business shall be designated and licensed as subagencies of that dealership;

(b) All other names shall be designated and licensed as subagencies of that dealership;

(c) If a dealer is required to obtain a subagency license under (2)(a) of this section, he shall not be required to obtain an additional subagency license under (2)(b) of this section, unless he does business under more than one name at that location;

(3) The director shall fail to renew, suspend or revoke a subagency license of a dealership if the dealer ceases to maintain "an established place of business" at that subagency location.

(4) All temporary subagencies shall be covered by the bond of the dealer's principal place of business.

(5) A new motor vehicle dealer that is unable to locate his/her used vehicle sales facilities adjacent to or at the established place of business need not obtain and hold a subagency license if:

(a) Vehicle sales lot is contained within the same city block, or

(b) Directly across the street, or

(c) Is within sight, and

(d) Location is zoned properly, and

(e) Dealer bond covers sales lot.

(6) If sales lot referred to in section 5 is in sight of the principal place of business, no sign is required at that sales lot.

(7) The department may require that a dealer provide evidence that each place of business conforms to all zoning and land use ordinances.

(8) Each and every subagency license of a dealership shall automatically be deemed cancelled upon the termination, for whatever reason, of the principal license of that dealership.

(9) No license shall be issued to any applicant for a vehicle dealer or vehicle manufacturer license under a name that is the same as that of any dealer or manufacturer holding a current license issued pursuant to chapter 46.70 RCW.

(10) The fee will be ten dollars for each temporary subagency prior to July 1, 1986 and thereafter the fee will be twenty-five dollars. [Statutory Authority: RCW 46.70.160 and 1986 c 199 § 1. 87-01-016 (Order DLR 115), § 308-66-140, filed 12/9/86; Order MV 170, § 308-66-140, filed 7/16/73; Order 69-1, § 308-66-140, filed 8/28/69; Order 2, § 308-66-140, filed 1/29/68.]

WAC 308-66-145 Established place of business—Waiver procedure. (1) An applicant for a vehicle dealer license who requests a waiver of any established place of business requirement(s) must submit the following to the department:

(a) All required documents and fees for an original application as provided for in RCW 46.70.041, 46.70.061, 46.70.070, and WAC 308-66-120, with the exception of a leasehold agreement or evidence of real property ownership: *Provided*, That if a waiver is

granted to the applicant, the applicant must provide evidence of leasehold or real property ownership to the department before the license will be issued.

(b) A written request for waiver, in the form of either a letter or a request completed on the department's prescribed form, which contains the following minimum information:

(i) Specific nature or type of activity the applicant intends to conduct,

(ii) Specific element(s) of the established place of business requirements requested to be waived,

(iii) A clear and concise statement which identifies the unique circumstances necessitating the request for waiver, and,

(iv) Any other information the department may require.

(2) A licensee who requests a waiver of any established place of business requirement(s) must submit the following to the department:

(a) All required documents and fees, as provided for in RCW 46.70.061 and WAC 308-66-140, with the exception of a leasehold agreement or evidence of real property ownership: *Provided*, That if a waiver is granted the licensee must provide evidence of leasehold or real property ownership to the department within thirty days of waiver approval.

(b) A written request for waiver, in the form of either a letter or a request completed on the department's prescribed form, which contains the following minimum information:

(i) Specific nature or type of activity the licensee intends to conduct,

(ii) Specific element(s) of the established place of business requirements requested to be waived,

(iii) A clear and concise statement which identifies the unique circumstances necessitating the request, and,

(iv) Any other information the department may require.

(3) Upon receipt by the department of all the required information, the director or the director's designee will review the request for waiver of any established place of business requirement(s) and issue a final determination in writing.

(4) A waiver granted under section (3) will remain in effect only as long as the unique circumstance(s) under which the waiver was originally granted have not changed or until the director lifts the waiver for cause. [Statutory Authority: RCW 46.70.160 and 1986 c 199 § 1. 87-01-016 (Order DLR 115), § 308-66-145, filed 12/9/86.]

WAC 308-66-150 Unlawful practices. (1) Examples of unlawful acts or practices, as defined by RCW 46.70.180 (1)(a) shall include but not be limited to representations such as "no down payment," "a dollar down," "five dollars down," "take-over payments," and "no cash needed," and others of similar nature if either secondary financing or initial payment of any amount in excess of that represented is required from the purchaser. A dealer's plan to have all or a portion of the selling price financed by a third party does not relieve

him of his obligation to refrain from this prohibited type of advertising.

(2) Examples of unlawful acts or practices as defined by RCW 46.70.180 (1)(b), shall include but not be limited to representations such as "one hundred percent financing" if the terms of the purchase involve more than one security agreement and payments to more than one financing institution. When collateral in addition to the vehicle is required, it shall be listed on the security agreement containing the vehicle's description, not on a separate agreement. If a dealer advertises "collateral financing" or that collateral will be required, the dollar value of the required collateral shall be stated in the advertisement.

(3) It shall be considered misleading within the meaning of RCW 46.70.180(1) to advertise with words, phrases or initials not easily seen and comprehended by persons other than those closely allied with the vehicle industry, for example, the initials: "o.a.c.," or "c.f." or "f.o.b.," without explaining the meaning thereof within the same advertisement or instrument. The word "re-processed" shall not be used unless the vehicle has actually been rebuilt in a factory-type process.

(4) It shall be considered false or deceptive within the meaning of RCW 46.70.180(1):

(a) To advertise a used vehicle for sale that is not available.

(b) To advertise a new vehicle as available for immediate delivery if it is available only on order.

(c) To sell a particular vehicle at a higher price than advertised.

(i) The only addition to the advertised price shall be the selling price of additional equipment ordered by the purchaser, sales tax, and license fees.

(ii) "Additional equipment ordered by the purchaser" shall not include options installed on the vehicle at the time of advertising.

(iii) "Advertised price" shall not be expressed as a combination of

(A) Dollar figures and words, or

(B) Dollar figures and dollar figures unless the total dollar figure is expressed.

(d) To advertise that "any deal will be accepted" or words to that effect.

(e) To cause an advertisement to be placed by a dealer or salesman that does not identify the dealer by his complete business name, or by the word "dealer."

(f) For a dealer to incorporate in his name any term or designation which would have a tendency to mislead others as to the true nature of the business, such as the use of "wholesale," when a dealer's business is substantially retail; or "discount," when the price and policy of a dealer does not provide actual discounts.

(g) To advertise a not-new vehicle manufactured less than two years prior to the date of the advertisement without designating the vehicle as "used," "demo," or "demonstrator." For purposes of adequate disclosure, the appropriate quoted term must be employed. Other descriptive words, such as "executive," "lease," "rental,"

may be used in conjunction therewith, but not so as to create ambiguity as to whether a said vehicle is new, is used, or is a demonstrator.

(h) To advertise a specific price for a model or type of vehicle without:

(i) Designating the number of vehicles available at that price, and

(ii) Clearly identifying the vehicles available by vehicle identification number or license plate number.

Provided, however, That a dealer need not designate the number available or identify the vehicles available if, in fact, an unlimited supply of such vehicles are available for immediate delivery.

(5) It shall be considered false, misleading and deceptive for the seller to act or fail to act in violation of any disclosure provision of Title I of the "Federal Consumer Credit Protection Act" [P.L. 90-321, 82 Stat. 146, 15 USC 1601], popularly known as the "Truth in Lending Act," or in violation of the regulations prescribed by the Board of Governors of the Federal Reserve System to carry out the purposes of that title [12 CFR 226], or in violation of chapter 63.14 RCW, "Retail Installment Sales of Goods and Services."

(6) It shall be considered false, deceptive, or misleading within the meaning of RCW 46.70.180(1) to advertise in violation of any of the following provisions:

(a) No advertisement to aid, promote, or assist directly or indirectly any extension of credit may state:

(i) That a specific amount of credit or installment amount can be arranged unless the creditor usually and customarily arranges or will arrange credit amounts or installments for that period and in that amount; or

(ii) That no down payment or that a specified down payment will be accepted in connection with any extension of credit unless the creditor usually and customarily accepts or will accept down payment in that amount.

(b) No advertisement to aid, promote, or assist directly or indirectly any credit sale of a vehicle shall state:

(i) The rate of a finance charge unless it states the rate of that charge expressed as an "annual percentage rate," using that term.

(ii) The amount of the down payment required or that no down payment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless it states all of the following items:

(A) The cash price or the amount of the loan, as applicable.

(B) The amount of the down payment required or that no down payment is required, as applicable.

(C) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended.

(D) The amount of the finance charge expressed as an annual percentage rate.

(E) The deferred payment price or the sum of the payments, as applicable.

(c) No advertisement for the lease of a vehicle containing an option to purchase in which one of the following is used shall be made unless all of the following are disclosed:

- (i) The full term of the lease,
- (ii) The amount of each lease payment,
- (iii) The number of lease payments,
- (iv) The total amount of lease payments, and
- (v) The residual balance due at the end of the lease necessary to purchase the vehicle.

(d) No advertisement to aid, promote or assist directly or indirectly in providing financing for a residual balance may be used unless it contains all the items required by (b).

(7) It shall not be considered unlawful under the provisions of RCW 46.70.180 (7)(f) for a vehicle manufacturer to provide under the terms of any warranty that a purchaser of a vehicle must make warranty claims against only the manufacturer of an integral part of a vehicle if the manufacturer of that integral part has assumed a direct warranty obligation thereon to the purchaser and does, in fact, provide facilities or agencies within the states of Washington, Oregon or Idaho to discharge such warranty obligation.

(8) No manufacturer need make reimbursement under RCW 46.70.101 (3)(j) except to dealers selling its product at retail or to the dealers holding units purchased from the manufacturer for resale at retail: *Provided, however*, That if the warranty agreement between the dealer and the manufacturer requires prior approval by the manufacturer, such approval must be given within a reasonable time and in no event later than ten days, except in emergency situations where the life, health, or safety of the occupant or owner requires immediate action. [Order MV-446, § 308-66-150, filed 9/16/77; Order MV 170, § 308-66-150, filed 7/16/73; Order 70-08-04, § 308-66-150, filed 8/6/70; Order 69-1, § 308-66-150, filed 8/28/69; Order 2, § 308-66-150, filed 1/29/68.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

WAC 308-66-155 Consignment. (1) Contract.

(a) It shall be considered an unlawful practice within the meaning of RCW 46.70.180 for a vehicle dealer to accept any vehicle on consignment without first reducing the consignment to writing.

(b) *Minimum information required for consignment contracts.*

(i) The names of the parties to the contract including the identity of the legal owner.

(ii) A statement by the consignor indicating the location of the title and the unpaid balance of the vehicle, if any.

(iii) The date of the consignment agreement.

(iv) The specific effective duration of the contract.

(v) The agreed upon price which the consignor will receive for his vehicle.

(vi) The description of the consigned vehicle, by make, model, vehicle identification number, and license number.

(vii) The signatures of the parties to the contract.

(viii) If no price has been specified in (v) above, then the minimum retail price and the commission, fee, or compensation to which the vehicle dealer will be entitled upon the sale of the consigned vehicle.

(2) In the event the dealer-consignee and the consignor shall deem it appropriate to vary the terms of the written contract, the dealer-consignee shall obtain written authorization from the consignor prior to the sale of the subject vehicle.

(3) *Requirements for selling consigned vehicles.*

(a) All funds received, including deposits or payments in full or proceeds from the sale of trade-ins, shall be placed in a trust account as required under RCW 46.69.180(9), and said funds shall remain in such trust account until the consignor's and the legal owner's interest, if any, have been fully satisfied as provided in the consignment agreement. It shall be considered an unlawful practice for a vehicle dealer or salesperson to commingle funds received on a consigned vehicle with the assets of the dealer and the salesperson until all terms of the agreement have been completed.

(b) The amount due a consignor after the sale of the consigned vehicle shall be paid by the consignee immediately where title has been delivered to the purchaser, and in all cases shall be paid within ten days. †

(c) The consignor shall receive a copy of the purchase order used to complete the sale at the time the funds are remitted where the sale has been on a fee or commission basis.

(4) *Consignee's duty to transfer title.*

(a) The sale of consigned vehicles imposes the same duty under RCW 46.12.120 to consignee as any other sale.

(b) Prior to accepting a vehicle for consignment and offering it for sale, it shall be the duty of the consignee to verify or confirm the title location. Failure to do so shall be considered an unlawful and deceptive practice under RCW 46.70.180(1). [Statutory Authority: RCW 46.70.160 and 1986 c 199 § 1. 87-01-016 (Order DLR 115), § 308-66-155, filed 12/9/86; Order MV-352, § 308-66-155, filed 3/4/76.]

WAC 308-66-157 Listing. (1) Dealer responsibilities.

(a) The listing dealer shall be responsible for negotiating the agreement between seller and purchaser as follows:

(b) All written offers shall be presented to the seller for acceptance or refusal. A copy of the agreement shall be delivered to the purchaser immediately following the purchaser's signing.

(c) A copy of the offer to purchase shall be delivered to the seller immediately following seller's signing and acceptance of purchaser's offer.

(d) A copy of the agreement to purchase bearing the signature of the seller(s) shall be delivered to the purchaser as proof that the purchaser's offer was accepted.

(e) A legible copy of the agreement to purchase shall be retained in the listing dealer's files.

(f) A copy of the agreement between purchaser and dealer to disburse any funds from the trust account to pay liens against the used mobile home shall be retained in the dealer's files.

(2) At the time the sale is closed, the listing dealer may pay outstanding liens out of the trust account prior to paying the sale proceeds to the seller. [Statutory Authority: RCW 46.70.160 and 1986 c 199 § 1. 87-01-016 (Order DLR 115), § 308-66-157, filed 12/9/86.]

WAC 308-66-160 Dealer's license plates. (1) When dealer's plates are used on any vehicle being demonstrated to a prospective customer, it is not necessary that the dealer or a member of his firm accompany the prospective customer except as provided in RCW 46.70.090. Prospective customers, when not accompanied by a dealer or member of his firm, shall be issued a demonstration permit by the dealer authorizing them to operate the vehicle for a period not to exceed seventy-two hours for the purpose of demonstration and possible purchase.

(2) When a dealer receives a vehicle bearing foreign license plates, such plates shall be covered by the dealer's plates while that vehicle is being demonstrated. Upon the sale of the vehicle, the foreign plates shall be removed and destroyed by the dealer prior to the delivery of the vehicle. When a foreign-plated vehicle is sold to a resident of the state whose plate is so displayed on the vehicle and the purchaser returns the vehicle immediately to his home state for use there and not in Washington, the dealer may deliver the vehicle with foreign plates attached if either one of two conditions is also met. The conditions are:

(a) The purchaser must have applied to his home state's vehicle licensing authority to register the vehicle in his own name, or

(b) The purchaser must have obtained a one-transit permit to move the vehicle from the dealer's place of business to his own state.

(3) An employee of a dealer shall carry an employee identification card when operating any vehicle bearing dealer's plates.

(4) Dealer's plates may not be used on any vehicle belonging to a member of the dealer's family.

(5) Dealer's plates may not be used on any vehicle owned by the dealer if such vehicle is used exclusively by members of the dealer's family.

(6) Vehicles bearing dealer's plates may not be loaned to the dealer's service customers.

(7) Dealers are required to provide reasonably accurate records reflecting the use of dealer plates. [Statutory Authority: RCW 46.70.160. 86-21-025 (Order DLR-114), § 308-66-160, filed 10/8/86; Order MV 170, § 308-66-160, filed 7/16/73; Order 70-08-04, § 308-66-160, filed 8/6/70; Order 69-1, § 308-66-160, filed 8/28/69; Order 2, § 308-66-160, filed 1/29/68.]

WAC 308-66-170 Denial, suspension or revocation of license. (1) When the license of a vehicle dealer has been suspended or revoked or an application has been denied, the department shall post a closure notice at or

near the principal entry to the place of business. Such notice shall include a statement that the dealership is closed as to the sale of vehicles because of the denial, suspension or revocation of a license. In case of a suspension, the duration of the suspension shall be stated on the notice. A dealer shall not remove any closure notice without written permission from an authorized representative of the director.

(2) Practices inimical to the health and safety of the citizens of the state of Washington pursuant to RCW 46.70.101 (3)(k) shall include, but not be limited to, failure to comply with the following federal and state standards, as presently constituted and as hereafter amended, amplified or revised, pertaining to the construction and safety of vehicles:

(a) "Federal motor vehicle safety standards," 49 Code of Federal Regulations, part 571;

(b) "Control of air pollution from new motor vehicles and new motor vehicle engines," 40 Code of Federal Regulations, part 85;

(c) "Vehicle lighting and other equipment," chapter 46.37 RCW;

(d) Rules and regulations adopted by the state commission on equipment pursuant to RCW 46.37.005, Title 204 Washington Administrative Code[?];

(e) "Mobile homes, trailer coaches, and recreational vehicles," chapter 296-48 Washington Administrative Code;

(f) Housing and Community Development Act of 1974, Public Law 93-383, Title VI Mobile home construction and safety standards, §§ 603, 604, 610, 615, 616, 617. [Statutory Authority: RCW 46.70.160 and 1986 c 199 § 1. 87-01-016 (Order DLR 115), § 308-66-170, filed 12/9/86; Order MV-446, § 308-66-170, filed 9/16/77; Order MV 170, § 308-66-170, filed 7/16/73; Order 2, § 308-66-170, filed 1/29/68.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 308-66-180 Record of transactions. (1) The record of purchase and sale of vehicles maintained by a dealer shall, where applicable, include, but not be limited to:

(a) A description of the vehicle, which shall include those items of description required on the Washington application for title;

(b) The Washington license plate number assigned to the vehicle upon transfer;

(c) The required odometer statement disclosure form which shall conform to 49 Code of Federal Regulations, part 580;

(d) The hardback copy of the temporary license permit after the permanent license plates have been provided to the purchaser, if the vehicle is delivered on such permit issued by the dealer.

(2) The record of purchase and sale of the vehicle shall be maintained on all transactions whether at retail or wholesale. [Statutory Authority: RCW 46.70.160 and 1986 c 199 § 1. 87-01-016 (Order DLR 115), § 308-

66-180, filed 12/9/86; Order MV 170, § 308-66-180, filed 7/16/73; Order 2, § 308-66-180, filed 1/29/68.]

WAC 308-66-190 Transfer of certificate of title by dealer. (1) When a vehicle displaying current Washington plates is sold by a dealer, the dealer shall make an application for a certificate of title in the purchaser's name within thirty days following the sale of the vehicle.

(2) The dealer shall in every case sign or type his name on the certificate of title accompanying the transfer. If an authorized agent signs for the dealer, he shall give his title.

(3) The name and address of the previous registered owner shall be shown on the application for transfer of title.

(4) The dealer shall insert the odometer mileage reading on title applications as required by RCW 46.12-.120. [Statutory Authority: RCW 46.70.160. 90-10-013, § 308-66-190, filed 4/20/90, effective 5/21/90; Order MV 170, § 308-66-190, filed 7/16/73; Order 2, § 308-66-190, filed 1/29/68.]

WAC 308-66-195 Possession of certificates of title.

(1) A vehicle dealer shall have possession of a separate certificate of ownership for each used vehicle kept in his possession unless that certificate is in the possession of the person holding a security interest in the dealer's inventory.

(2) Each title shall be in the dealer's own name or in the name of the dealer's immediate vendor properly assigned.

(3) If there is a lienholder on any vehicle acquired by the dealer, the dealer shall obtain possession of the title by paying off any balance due to the lienholder no later than the close of the second business day following the date of acquisition of the vehicle by the dealer. [Order MV 170, § 308-66-195, filed 7/16/73.]

WAC 308-66-200 Transfer of vehicle to another dealer. When a dealer sells a vehicle to a second dealer, the first dealer shall fill out a dealer-to-dealer report of sale or a release of interest, attach to the certificate of title and deliver to the second dealer. The second dealer shall complete the dealer's report of sale on the application for transfer to the subsequent owner. When more than two dealers are involved, each dealer shall complete a dealer-to-dealer form or a release of interest except the final dealer who sells to a retail purchaser. The final dealer shall complete the dealer's report on the application for transfer. [Order MV 170, § 308-66-200, filed 7/16/73; Order 2, § 308-66-200, filed 1/29/68.]

WAC 308-66-210 Statement of change in business structure, ownership interest or control. (1) Any person, firm, association, corporation or trust licensed as a dealer under RCW 46.70.021 must, within ten days following any change in its business or ownership structure, file a statement describing with particularity the change

effected in its business structure or the change in ownership interest. In addition, persons newly assuming executive or control functions, including but not limited to new corporate officers, directors, majority stockholders, managing partners or trustees, must file within ten days of assuming such function an application and a legal and financial history, including corporation number if a corporation.

(2) Any person, firm, association, corporation or trust licensed as a vehicle manufacturer pursuant to chapter 46.70 RCW shall advise the department within ten days of the change and/or addition to:

(a) The business structure of the licensee;

(b) The mailing address of a licensee;

(c) The name and address of employees or agents designated pursuant to RCW 46.70.041 and 46.70.101 to provide service or repairs to vehicles located within the state of Washington. If the licensee requires warranty service to be performed by all of its dealers pursuant to current service agreements on file with the department, it need not advise the department of changes in its lists of dealers.

(3) Any and all changes affecting the applicability of a bond, if posted, shall be reflected by appropriate endorsement to such bond. [Statutory Authority: RCW 46.70.160 and 1986 c 199 § 1. 87-01-016 (Order DLR 115), § 308-66-210, filed 12/9/86; Order MV 170, § 308-66-210, filed 7/16/73; Order 70-08-04, § 308-66-210, filed 8/6/70; Order 69-1, § 308-66-210, filed 8/28/69; Order 2, § 308-66-210, filed 1/29/68.]

WAC 308-66-211 Termination of business. A dealer or a manufacturer who terminates his business shall return his license and special license plates to the department for cancellation within ten business days of such termination, except as provided in RCW 46.70.081. [Order MV 170, § 308-66-211, filed 7/16/73; Order 70-08-04, § 308-66-211, filed 8/6/70.]

WAC 308-66-212 Sale, transfer or other disposition of noncorporate licensee. Upon the sale, transfer or other disposition of fifty percent or more of the ownership interest in a noncorporate licensee:

(1) A rider to the bond revealing the change in ownership shall be filed with the department.

(2) A new application for an appropriate license by the purchaser or transferee is required and the fee will be the same as for an original application.

(3) The former owner must turn into the department his special license plates. The new owner or transferee must purchase new plates in his own name. [Order MV 170, § 308-66-212, filed 7/16/73; Order 70-08-04, § 308-66-212, filed 8/6/70.]

WAC 308-66-213 Partial sales transfer or disposition of noncorporate licensee. When a licensee transfers less than fifty percent of the ownership interest in a noncorporate licensee to a person not licensed at the licensee's place of business:

(1) A rider to the bond revealing the change in ownership shall be filed with the department.

(2) A new application reflecting the change in ownership must be filed. The parties thereto shall be considered temporarily licensed until renewal or denial of the application and no additional fee will be required. Upon renewal of the license an original application and fee will be required.

(3) The special license plates issued to the original licensee may continue to be used. The same license number may be retained upon renewal if requested. [Order MV 170, § 308-66-213, filed 7/16/73; Order 70-08-04, § 308-66-213, filed 8/6/70.]

WAC 308-66-214 Incorporation of licensee while licensed. A licensee which incorporates while licensed:

(1) Shall file an application for an appropriate license.

(2) Shall file a new bond with the department.

(3) If the transfer involves a change in the business structure only and does not involve the transfer of fifty percent or more of the ownership interest in the firm, the corporation may be considered temporarily licensed until the end of the licensing period or until the application is denied, and during such period:

(a) No additional fees will be required until renewal, at which time an original application for license and fee will be required.

(b) The same special license plates may be used until renewal. The firm may request the preincorporation license number upon renewal. [Order MV 170, § 308-66-214, filed 7/16/73; Order 70-08-04, § 308-66-214, filed 8/6/70.]

WAC 308-66-215 Mergers and consolidations of corporations. The merger or consolidation of an incorporated licensed firm with a nonlicensed corporation shall be governed by the provisions of WAC 308-66-212 except that a new bond must be filed. Where, in the case of merger, the incorporated licensed firm becomes the surviving corporation, the department may waive WAC 308-66-212(3). [Order MV 170, § 308-66-215, filed 7/16/73; Order 70-08-04, § 308-66-215, filed 8/6/70.]

WAC 308-66-220 Display of vehicles by combination wrecker-dealer. A dealer who is also an auto wrecker shall keep vehicles held for resale physically separated from vehicles which have been or are to be dismantled for parts. Vehicles not in running condition will be considered as part of the wrecking operation and are to be stored within the fenced wrecking area. [Order 70-08-04, § 308-66-220, filed 8/6/70; Order 2, § 308-66-220, filed 1/29/68.]

WAC 308-66-225 Remanufactured vehicles in whole or in part. (1) If the remanufacturing process of the vehicle will involve the removal, destruction, or concealment of any identification number, the parts shall be inspected by an authorized member of the Washington state patrol prior to the removal, destruction, or concealment of the number.

(2) At no time shall a vehicle that falls within the purview of WAC 308-56A-455 or 308-56A-460 be

considered remanufactured by a manufacturer. [Statutory Authority: RCW 46.70.160 and 1986 c 199 § 1. 87-01-016 (Order DLR 115), § 308-66-225, filed 12/9/86.]

WAC 308-66-230 Titles—Combination tow truck operator-dealer. A dealer who is also a tow truck operator, must obtain a title in his own name for all motor vehicles held in his inventory which he has obtained as a result of a tow truck operator of abandoned vehicle sale conducted in accordance with chapter 46.55 RCW. A vehicle sold directly to a purchaser at the time the tow truck operator's abandoned vehicle sale was originally conducted, need not be titled in the dealer's name before making an application for title for the purchaser. [Statutory Authority: RCW 46.70.160 and 1986 c 199 § 1. 87-01-016 (Order DLR 115), § 308-66-230, filed 12/9/86; Order 69-1, § 308-66-230, filed 8/28/69; Order 2, § 308-66-230, filed 1/29/68.]

THE LAW RELATING TO

***Motor Vehicle
Dealers Licenses***

46.70 RCW

JUNE 1990



WASHINGTON MOTOR VEHICLE LAW

Chapter 46.70 RCW

UNFAIR BUSINESS PRACTICES—DEALERS' LICENSES

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Automotive repair: Chapter 46.71 RCW.
 False or deceptive advertising: Chapter 9.04 RCW.
 Mobile home safety and construction standards, inspections: RCW 43-
 22.431 through 43.22.434.
 Motor vehicle express warranties ("Lemon Law"): Chapter 19.118
 RCW.
 Retail installment sales of goods: Chapter 63.14 RCW.
 Unfair business practices—Consumer protection: Chapter 19.86
 RCW.

RCW 46.70.005 Declaration of purpose. The legis-
 lature finds and declares that the distribution and sale of
 vehicles in the state of Washington vitally affects the
 general economy of the state and the public interest and
 the public welfare, and that in order to promote the
 public interest and the public welfare, and in the exer-
 cise of its police power, it is necessary to regulate and
 license vehicle manufacturers, distributors, or wholesal-
 ers and factory or distributor representatives, and to
 regulate and license dealers of vehicles doing business in
 Washington, in order to prevent frauds, impositions, and
 other abuses upon its citizens and to protect and pre-
 serve the investments and properties of the citizens of
 this state. [1986 c 241 § 1; 1973 1st ex.s. c 132 § 1;
 1967 ex.s. c 74 § 1.]

Reviser's note: Throughout chapter 46.70 RCW the phrases "this
 act" and "this amendatory act" have been changed to "this chapter."
 This 1967 act or amendatory act [1967 ex.s. c 74] consists of RCW
 46.70.005 through 46.70.042, 46.70.051, 46.70.061, 46.70.081 through
 46.70.083, 46.70.101 through 46.70.111, 46.70.180 through 46.70.910,
 the 1967 amendments to RCW 46.70.060 and 46.70.070, and the re-
 peal of RCW 46.70.010 through 46.70.050, 46.70.080, 46.70.100, and
 46.70.110.

Emergency—Effective date—1967 ex.s. c 74: "This act is nec-
 essary for the immediate preservation of the public peace, health and
 safety, the support of the state government and its existing public in-
 stitutions, and sections 1 through 3 and sections 16 through 25 shall
 take effect immediately. Sections 4 through 15 and sections 26 through
 30 inclusive shall take effect on July 1, 1967." [1967 ex.s. c 74 § 31.]
 Sections 1 through 3 are codified as RCW 46.70.005, 46.70.900, and
 46.70.011; sections 16 through 25 are codified as RCW 46.70.180
 through 46.70.270; sections 4 through 15 are codified as RCW 46.70-
 .021 through 46.70.051, 46.70.061, 46.70.081 through 46.70.083, and
 46.70.101 through 46.70.111; sections 26 through 29 are codified as
 RCW 46.70.060, 46.70.070, 46.70.280, and 46.70.910, and section 30
 repeals RCW 46.70.010 through 46.70.050, 46.70.080, 46.70.100, and
 46.70.110.

RCW 46.70.011 Definitions. As used in this chapter:
 (1) "Vehicle" means and includes every device capa-
 ble of being moved upon a public highway and in, upon,

or by which any persons or property is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(2) "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, and which is required to be registered and titled under Title 46 RCW, Motor Vehicles.

(3) "Vehicle dealer" means any person, firm, association, corporation, or trust, not excluded by subsection (4) of this section, engaged in the business of buying, selling, listing, exchanging, offering, brokering, leasing with an option to purchase, auctioning, soliciting, or advertising the sale of new or used vehicles, or arranging or offering or attempting to solicit or negotiate on behalf of others, a sale, purchase, or exchange of an interest in new or used motor vehicles, irrespective of whether the motor vehicles are owned by that person. Vehicle dealers shall be classified as follows:

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

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

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

(4) The term "vehicle dealer" does not include, nor do the licensing requirements of RCW 46.70.021 apply to, the following persons, firms, associations, or corporations:

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

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

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

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

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

(f) A real estate broker licensed under chapter 18.85 RCW, or his authorized representative, who, on behalf of the legal or registered owner of a used mobile home negotiates the purchase, sale, or exchange of the used mobile home in conjunction with the purchase, sale, exchange, rental, or lease of the land upon which the used mobile home is located and the real estate broker is not acting as an agent, subagent, or representative of a vehicle dealer licensed under this chapter; or

(g) Owners who are also operators of the special highway construction equipment or of the highway construction equipment for which a vehicle license and display vehicle license number plate is required as defined in RCW 46.16.010; or

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

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

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

(7) "Director" means the director of licensing.

(8) "Manufacturer" means any person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new and unused vehicles or remanufactures vehicles in whole or in part and further includes the terms:

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

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

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

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

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

(11) "Subagency" means any place of business of a vehicle dealer within the state, which place is physically and geographically separated from the principal place of business of the firm or any place of business of a vehicle dealer within the state, at which place the firm does business using a name other than the principal name of the firm, or both.

(12) "Temporary subagency" means a location other than the principal place of business or subagency within

the state where a licensed vehicle dealer may secure a license to conduct the business and is licensed for a period of time not to exceed ten days for a specific purpose such as auto shows, shopping center promotions, tent sales, exhibitions, or similar merchandising ventures. No more than six temporary subagency licenses may be issued to a licensee in any twelve-month period.

(13) "Wholesale vehicle dealer" means a vehicle dealer who buys and sells other than at retail.

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

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

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

(17) "Auction company" means a sole proprietorship, partnership, corporation, or other legal or commercial entity licensed under chapter 18.11 RCW that only sells or offers to sell vehicles at auction or only arranges or sponsors auctions. [1989 c 337 § 11; 1989 c 301 § 1; 1988 c 287 § 1; 1986 c 241 § 2; 1981 c 305 § 2; 1979 c 158 § 186; 1979 c 11 § 3. Prior: 1977 ex.s. c 204 § 2; 1977 ex.s. c 125 § 1; 1973 1st ex.s. c 132 § 2; 1969 ex.s. c 63 § 1; 1967 ex.s. c 74 § 3.]

Reviser's note: This section was amended by 1989 c 301 § 1 and by 1989 c 337 § 11, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

RCW 46.70.021 License required for dealers or manufacturers—Penalties. It is unlawful for any person, firm, or association to act as a vehicle dealer or vehicle manufacturer, to engage in business as such, serve in the capacity of such, advertise himself, herself, or themselves as such, solicit sales as such, or distribute or transfer vehicles for resale in this state, without first obtaining and holding a current license as provided in this chapter, unless the title of the vehicle is in the name of the seller. It is unlawful for any person other than a licensed vehicle dealer to display a vehicle for sale unless the registered owner or legal owner is the displayer or holds a notarized power of attorney. A person or firm engaged in buying and offering for sale, or buying and selling five or more vehicles in a twelve-month period, or in any other way engaged in dealer activity without holding a vehicle dealer license, is guilty of a gross misdemeanor, and upon conviction is subject to a fine of up to one thousand dollars for each violation and up to one year in jail. A second offense is a class C felony punishable under chapter 9A.20 RCW. A violation of this section is also a per se violation of chapter 19.86 RCW and is considered a deceptive practice. The department of licensing, the Washington state patrol, the attorney general's office, and the department of revenue shall

cooperate in the enforcement of this section. A distributor, factory branch, or factory representative shall not be required to have a vehicle manufacturer license so long as the vehicle manufacturer so represented is properly licensed pursuant to this chapter. Nothing in this chapter prohibits financial institutions from cooperating with vehicle dealers licensed under this chapter in dealer sales or leases. However, financial institutions shall not broker vehicles and cooperation is limited to organizing, promoting, and financing of such dealer sales or leases. [1988 c 287 § 2; 1986 c 241 § 3; 1973 1st ex.s. c 132 § 3; 1967 ex.s. c 74 § 4.]

RCW 46.70.023 Place of business. (1) An "established place of business" requires a permanent, enclosed commercial building located within the state of Washington easily accessible at all reasonable times. An established place of business shall have an improved display area of not less than three thousand square feet in or immediately adjoining the building, or a display area large enough to display six or more vehicles of the type the dealer is licensed to sell, whichever area is larger. The business of a vehicle dealer, including the display and repair of vehicles, may be lawfully carried on at an established place of business in accordance with the terms of all applicable building code, zoning, and other land-use regulatory ordinances. The dealer shall keep the building open to the public so that they may contact the vehicle dealer or the dealer's salespersons at all reasonable times. The books, records, and files necessary to conduct the business shall be kept and maintained at that place. The established place of business shall display an exterior sign with the business name and nature of the business, such as auto sales, permanently affixed to the land or building, with letters clearly visible to the major avenue of traffic. In no event may a room or rooms in a hotel, rooming house, or apartment house building or part of a single or multiple-unit dwelling house be considered an "established place of business" unless the ground floor of such a dwelling is devoted principally to and occupied for commercial purposes and the dealer offices are located on the ground floor. A mobile office or mobile home may be used as an office if it is connected to utilities and is set up in accordance with state law. This subsection does not apply to auction companies that do not own vehicle inventory or sell vehicles from an auction yard.

(2) An auction company shall have office facilities within the state. The books, records, and files necessary to conduct the business shall be maintained at the office facilities. All storage facilities for inventory shall be listed with the department, and shall meet local zoning and land use ordinances. An auction company shall maintain a telecommunications system.

(3) Auction companies shall post their vehicle dealer license at each auction where vehicles are offered, and shall provide the department with the address of the auction at least three days before the auction.

(4) If a dealer maintains a place of business at more than one location or under more than one name in this

state, he or she shall designate one location as the principal place of business of the firm, one name as the principal name of the firm, and all other locations or names as subagencies. A subagency license is required for each and every subagency: *Provided*, That the department may grant an exception to the subagency requirement in the specific instance where a licensed new motor vehicle dealer is unable to locate their used vehicle sales facilities adjacent to or at the established place of business. This exception shall be granted and defined under the promulgation of rules consistent with the Administrative Procedure Act.

(5) All vehicle dealers shall maintain ownership or leasehold throughout the license year of the real property from which they do business. The dealer shall provide the department with evidence of ownership or leasehold whenever the ownership changes or the lease is terminated.

(6) A subagency shall comply with all requirements of an established place of business, except that auction companies shall comply with the requirements in subsection (2) of this section.

(7) A temporary subagency shall meet all local zoning and building codes for the type of merchandising being conducted. The dealer license certificate shall be posted at the location. No other requirements of an established place of business apply to a temporary subagency. Auction companies are not required to obtain a temporary subagency license.

(8) A wholesale vehicle dealer shall have office facilities in a commercial building within this state, and all storage facilities for inventory shall be listed with the department, and shall meet local zoning and land use ordinances. A wholesale vehicle dealer shall maintain a telecommunications system. An exterior sign visible from the nearest street shall identify the business name and the nature of business. A wholesale dealer need not maintain a display area as required in this section. When two or more vehicle dealer businesses share a location, all records, office facilities, and inventory, if any, must be physically segregated and clearly identified.

(9) A retail vehicle dealer shall be open during normal business hours, maintain office and display facilities in a commercially zoned location or in a location complying with all applicable building and land use ordinances, and maintain a business telephone listing in the local directory. When two or more vehicle dealer businesses share a location, all records, office facilities, and inventory shall be physically segregated and clearly identified.

(10) A listing dealer need not have a display area if the dealer does not physically maintain any vehicles for display.

(11) A subagency license is not required for a mobile home dealer to display an on-site display model, a consigned mobile home not relocated from its site, or a repossessed mobile home if sales are handled from a principal place of business or subagency. A mobile home dealer shall identify on-site display models, repossessed mobile homes, and those consigned at their sites with a sign that includes the dealer's name and telephone number.

(12) Every vehicle dealer shall advise the department of the location of each and every place of business of the firm and the name or names under which the firm is doing business at such location or locations. If any name or location is changed, the dealer shall notify the department of such change within ten days. The license issued by the department shall reflect the name and location of the firm and shall be posted in a conspicuous place at that location by the dealer.

(13) A vehicle dealer's license shall upon the death or incapacity of an individual vehicle dealer authorize the personal representative of such dealer, subject to payment of license fees, to continue the business for a period of six months from the date of the death or incapacity. [1989 c 301 § 2; 1986 c 241 § 4.]

RCW 46.70.025 Established place of business—Waiver of requirements. The director may by rule waive any requirements pertaining to a vehicle dealer's established place of business if such waiver both serves the purposes of this chapter and is necessary due to unique circumstances such as a location divided by a public street or a highly specialized type of business. [1986 c 199 § 1.]

RCW 46.70.027 Accountability of dealer for employees—Actions for damages on violation of chapter. A vehicle dealer is accountable for the dealer's employees, sales personnel, and managerial personnel while in the performance of their official duties. Any violations of this chapter or applicable provisions of chapter 46.12 or 46.16 RCW committed by any of these employees subjects the dealer to license penalties prescribed under RCW 46.70.101. A retail purchaser, consignor who is not a motor vehicle dealer, or a motor vehicle dealer who has purchased from a wholesale dealer, who has suffered a loss or damage by reason of any act by a dealer, salesperson, managerial person, or other employee of a dealership, that constitutes a violation of this chapter or applicable provisions of chapter 46.12 or 46.16 RCW may institute an action for recovery against the dealer and the surety bond as set forth in RCW 46.70.070. However, under this section, motor vehicle dealers who have purchased from wholesale dealers may only institute actions against wholesale dealers and their surety bonds. [1989 c 337 § 12; 1986 c 241 § 5.]

RCW 46.70.028 Consignment. Dealers who transact dealer business by consignment shall obtain a consignment contract for sale and shall comply with applicable provisions of chapter 46.70 RCW. The dealer shall place all funds received from the sale of the consigned vehicle in a trust account until the sale is completed, except that the dealer shall pay any outstanding liens against the vehicle from these funds. Where title has been delivered to the purchaser, the dealer shall pay the amount due a consignor within ten days after the sale. [1989 c 337 § 13.]

RCW 46.70.029 Listing dealers, transaction of business. Listing dealers shall transact dealer business by

obtaining a consignment for sale, and the buyer's purchase of the mobile home shall be handled as dealer inventory. All funds from the purchaser shall be placed in a trust account until the sale is completed, except that the dealer shall pay any outstanding liens against the mobile home from these funds. A complete account of all funds received and disbursed shall be given to the seller or consignor after the sale is completed. [1986 c 241 § 6.]

RCW 46.70.031 Application for license—Form. A vehicle dealer or vehicle manufacturer may apply for a license by filing with the department an application in such form as the department may prescribe. [1986 c 241 § 7; 1973 1st ex.s. c 132 § 4; 1967 ex.s. c 74 § 5.]

RCW 46.70.041 Application for license—Contents. (1) Every application for a vehicle dealer license shall contain the following information to the extent it applies to the applicant:

(a) Proof as the department may require concerning the applicant's identity, including but not limited to his fingerprints, the honesty, truthfulness, and good reputation of the applicant for the license, or of the officers of a corporation making the application;

(b) The applicant's form and place of organization including if the applicant is a corporation, proof that the corporation is licensed to do business in this state;

(c) The qualification and business history of the applicant and any partner, officer, or director;

(d) The applicant's financial condition or history including a bank reference and whether the applicant or any partner, officer, or director has ever been adjudged bankrupt or has any unsatisfied judgment in any federal or state court;

(e) Whether the applicant has been adjudged guilty of a crime which directly relates to the business for which the license is sought and the time elapsed since the conviction is less than ten years, or has suffered any judgment within the preceding five years in any civil action involving fraud, misrepresentation, or conversion and in the case of a corporation or partnership, all directors, officers, or partners;

(f) A business telephone with a listing in the local directory;

(g) The name or names of new vehicles the vehicle dealer wishes to sell;

(h) The names and addresses of each manufacturer from whom the applicant has received a franchise;

(i) Whether the applicant intends to sell used vehicles, and if so, whether he has space available for servicing and repairs;

(j) A certificate by the chief of police or his deputy, or a member of the Washington state patrol or a representative of the department, that the applicant's principal place of business and each subagency business location in the state of Washington meets the location requirements as required by this chapter. The certificate shall include proof of the applicant's ownership or lease of the real property where the applicant's principal place of business is established. In no event may the certificate

be issued by a member of the Washington state patrol if the dealership is located in a city which has a population in excess of five thousand persons;

(k) A copy of a current service agreement with a manufacturer, or distributor for a foreign manufacturer, requiring the applicant, upon demand of any customer receiving a new vehicle warranty to perform or arrange for, within a reasonable distance of his established place of business, the service repair and replacement work required of the manufacturer or distributor by such vehicle warranty. This requirement applies only to applicants seeking to sell, to exchange, to offer, to auction, to solicit, or to advertise new or current-model vehicles with factory or distributor warranties;

(l) The class of vehicles the vehicle dealer will be buying, selling, listing, exchanging, offering, brokering, leasing with an option to purchase, auctioning, soliciting, or advertising, and which classification or classifications the dealer wishes to be designated as;

(m) Any other information the department may reasonably require.

(2) If the applicant is a manufacturer the application shall contain the following information to the extent it is applicable to the applicant:

(a) The name and address of the principal place of business of the applicant and, if different, the name and address of the Washington state representative of the applicant;

(b) The name or names under which the applicant will do business in the state of Washington;

(c) Evidence that the applicant is authorized to do business in the state of Washington;

(d) The name or names of the vehicles that the licensee manufactures;

(e) The name or names and address or addresses of each and every distributor, factory branch, and factory representative;

(f) The name or names and address or addresses of resident employees or agents to provide service or repairs to vehicles located in the state of Washington only under the terms of any warranty attached to new or unused vehicles manufactured, unless such manufacturer requires warranty service to be performed by all of its dealers pursuant to a current service agreement on file with the department;

(g) Any other information the department may reasonably require. [1986 c 241 § 8; 1979 c 158 § 187; 1977 ex.s. c 125 § 2; 1973 1st ex.s. c 132 § 5; 1971 ex.s. c 74 § 1; 1969 ex.s. c 63 § 2; 1967 ex.s. c 74 § 6.]

Requirements of "established place of business": RCW 46.70.023.

RCW 46.70.042 Application for license—Retention by department—Confidentiality. Every application for license shall be retained by the department for a period of three years and shall be confidential information for the use of the department, the attorney general or the prosecuting attorney only: *Provided*, That upon a showing of good cause therefor any court in which an action is pending by or against the applicant or licensee, may order the director to produce and permit the inspection and copying or photographing the application

and any accompanying statements. [1967 ex.s. c 74 § 14.]

RCW 46.70.051 Issuance of license. (1) After the application has been filed, the fee paid, and bond posted, if required the department shall, if no denial order is in effect and no proceeding is pending under RCW 46.70.180 or *46.70.200, issue the appropriate license, which license, in the case of a vehicle dealer, shall designate the classification of the dealer. Nothing prohibits a vehicle dealer from obtaining licenses for more than one classification, and nothing prevents any vehicle dealer from dealing in other classes of vehicles on an isolated basis.

(2) An auction company licensed under chapter 18.11 RCW may sell at auction all classifications of vehicles under a motor vehicle dealer's license issued under this chapter including motor vehicles, miscellaneous type vehicles, and mobile homes and travel trailers. [1989 c 301 § 3; 1973 1st ex.s. c 132 § 6; 1971 ex.s. c 74 § 2; 1967 ex.s. c 74 § 7.]

*Reviser's note: RCW 46.70.200 was repealed by 1989 c 415 § 23.

RCW 46.70.061 Fees—Disposition. (1) The annual fees for original licenses issued for twelve consecutive months from the date of issuance under this chapter shall be:

(a) Vehicle dealers, principal place of business for each and every license classification: Five hundred dollars;

(b) Vehicle dealers, each subagency: Fifty dollars; temporary subagency: Twenty-five dollars;

(c) Vehicle manufacturers: Five hundred dollars.

(2) The annual fee for renewal of any license issued pursuant to this chapter shall be:

(a) Vehicle dealers, principal place of business for each and every license classification: Two hundred fifty dollars;

(b) Vehicle dealer, each and every subagency: Twenty-five dollars;

(c) Vehicle manufacturers: Two hundred fifty dollars.

If any licensee fails or neglects to apply for such renewal within thirty days after the expiration of the license, or assigned renewal date under a staggered licensing system, the license shall be declared canceled by the director, in which case the licensee will be required to apply for an original license and pay the fee required for the original license.

(3) The fee for the transfer to another location of any license issued pursuant to this chapter shall be twenty-five dollars.

(4) The fee for vehicle dealer license plates and manufacturer license plates shall be the amount required by law for vehicle license plates exclusive of excise tax, except those specified in RCW 82.44.030, and gross weight and tonnage fees.

(5) All fees collected under this chapter shall be deposited in the state treasury and credited to the motor vehicle fund.

(6) The fees prescribed in this section are in addition to any excise taxes imposed by chapter 82.44 RCW.

[1986 c 241 § 10; 1986 c 241 § 9; 1979 ex.s. c 251 § 1; 1973 1st ex.s. c 132 § 7; 1967 ex.s. c 74 § 13.]

Effective dates—1986 c 241: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately, except section 9 of this act shall take effect July 1, 1986, and section 10 of this act shall take effect July 1, 1987." [1986 c 241 § 28.]

RCW 46.70.070 Dealers—Bond required, exceptions—Actions—Cancellation of license. (1) Before issuing a vehicle dealer's license, the department shall require the applicant to file with the department a surety bond in the amount of:

(a) Fifteen thousand dollars for motor vehicle dealers;

(b) Thirty thousand dollars for mobile home, park trailer, and travel trailer dealers: *Provided*, That if such dealer does not deal in mobile homes or park trailers such bond shall be fifteen thousand dollars;

(c) Five thousand dollars for miscellaneous dealers, running to the state, and executed by a surety company authorized to do business in the state. Such bond shall be approved by the attorney general as to form and conditioned that the dealer shall conduct his business in conformity with the provisions of this chapter.

Any retail purchaser, consignor who is not a motor vehicle dealer, or a motor vehicle dealer who has purchased from a wholesale dealer, who has suffered any loss or damage by reason of any act by a dealer which constitutes a violation of this chapter shall have the right to institute an action for recovery against such dealer and the surety upon such bond. However, under this section, motor vehicle dealers who have purchased from wholesale dealers may only institute actions against wholesale dealers and their surety bonds. Successive recoveries against said bond shall be permitted, but the aggregate liability of the surety to all persons shall in no event exceed the amount of the bond. Upon exhaustion of the penalty of said bond or cancellation of the bond by the surety the vehicle dealer license shall automatically be deemed canceled.

(2) The bond for any vehicle dealer licensed or to be licensed under more than one classification shall be the highest bond required for any such classification.

(3) Vehicle dealers shall maintain a bond for each business location in this state and bond coverage for all temporary subagencies. [1989 c 337 § 15; 1986 c 241 § 11; 1981 c 152 § 1; 1973 1st ex.s. c 132 § 8; 1971 ex.s. c 74 § 4; 1967 ex.s. c 74 § 27; 1961 c 239 § 1; 1961 c 12 § 46.70.070. Prior: 1959 c 166 § 19; 1951 c 150 § 8.]

RCW 46.70.075 Manufacturers—Bond required—Actions—Cancellation of license. Before issuing a manufacturer license to a manufacturer of mobile homes or travel trailers, the department shall require the applicant to file with the department a surety bond in the amount of forty thousand dollars in the case of a mobile home manufacturer and twenty thousand dollars in the case of a travel trailer manufacturer, running to the state and executed by a surety company authorized to do business in the state. Such bond shall

be approved by the attorney general as to form and conditioned that the manufacturer shall conduct his business in conformity with the provisions of this chapter and with all standards set by the state of Washington or the federal government pertaining to the construction or safety of such vehicles. Any retail purchaser or vehicle dealer who has suffered any loss or damage by reason of breach of warranty or by any act by a manufacturer which constitutes a violation of this chapter or a violation of any standards set by the state of Washington or the federal government pertaining to construction or safety of such vehicles has the right to institute an action for recovery against such manufacturer and the surety upon such bond. Successive recoveries against the bond shall be permitted, but the aggregate liability of the surety to all persons shall in no event exceed the amount of the bond. Upon exhaustion of the penalty of the bond or cancellation of the bond by the surety the manufacturer license is automatically deemed canceled. [1981 c 152 § 3; 1973 1st ex.s. c 132 § 9.]

RCW 46.70.083 Expiration of license—Application for renewal—Certification of established place of business. The license of a vehicle dealer or a vehicle manufacturer expires on the date assigned by the director, and may be renewed by filing with the department prior to the expiration thereof an application containing such information as the department may require to indicate any material change in the information contained in the original application.

Before renewal, the dealer's established place of business shall be certified by a representative of the department, the chief of police or his deputy, or a member of the Washington state patrol. The certification shall verify compliance with the requirements of this chapter for an established place of business. Failure by the dealer to comply is grounds for denial of the renewal application. [1986 c 241 § 12; 1985 c 109 § 1; 1973 1st ex.s. c 132 § 12; 1971 ex.s. c 74 § 6; 1967 ex.s. c 74 § 10.]

RCW 46.70.085 Dealers, manufacturers, salespersons licenses—Staggered renewal. Notwithstanding any provision of law to the contrary, the director may extend or diminish licensing periods of dealers, manufacturers, and salespersons for the purpose of staggering renewal periods. The extension or diminishment shall be by rule of the department adopted in accordance with chapter 34.05 RCW. [1985 c 109 § 2.]

RCW 46.70.090 Dealer and manufacturer license plates—Use. (1) The department shall issue a vehicle dealer license plate which shall be attached to the rear of the vehicle only and which is capable of distinguishing the classification of the dealer, to vehicle dealers properly licensed pursuant to this chapter and shall, upon application, issue manufacturer's license plates to manufacturers properly licensed pursuant to this chapter.

(2) Motor vehicle dealer license plates may be used:

(a) To demonstrate motor vehicles held for sale when operated by an individual holding a valid operator's license, if a dated demonstration permit, valid for no more

than seventy-two hours, is carried in the vehicle at all times it is operated by any such individual.

(b) On motor vehicles owned, held for sale, and which are in fact available for sale by the firm when operated by an officer of the corporation, partnership, or proprietorship or by their spouses, or by a bona fide full-time employee of the firm, if a card so identifying any such individual is carried in the vehicle at all times it is operated by such individual. Any such vehicle so operated may be used to transport the dealer's own tools, parts, and equipment of a total weight not to exceed five hundred pounds.

(c) On motor vehicles being tested for repair.

(d) On motor vehicles being moved to or from a motor vehicle dealer's place of business for sale.

(e) On motor vehicles being moved to or from motor vehicle service and repair facilities before sale.

(f) On motor vehicles being moved to or from motor vehicle exhibitions within the state of Washington, if any such exhibition does not exceed a period of twenty days.

(3) Mobile home and travel trailer dealer license plates may be used:

(a) On units hauled to or from the place of business of the manufacturer and the place of business of the dealer or to and from places of business of the dealer.

(b) On mobile homes hauled to a customer's location for set-up after sale.

(c) On travel trailers held for sale to demonstrate the towing capability of the vehicle if a dated demonstration permit, valid for not more than seventy-two hours, is carried with the vehicle at all times.

(d) On mobile homes being hauled from a customer's location if the requirements of RCW 46.44.170 and 46.44.175 are met.

(e) On any motor vehicle owned by the dealer which is used only to move vehicles legally bearing mobile home and travel trailer dealer license plates of the dealer so owning any such motor vehicle.

(f) On vehicles being moved to or from vehicle exhibitions within the state of Washington, if any such exhibition does not exceed a period of twenty days.

(4) Miscellaneous vehicle dealer license plates may be used:

(a) To demonstrate any miscellaneous vehicle: *Provided*, That:

(i) No such vehicle may be demonstrated on a public highway unless the customer has an appropriate endorsement on his driver's license, if such endorsement is required to operate such vehicle; and

(ii) A dated demonstration permit, valid for no more than seventy-two hours, is carried with the vehicle at all times it is operated by any such individual.

(b) On vehicles owned, held for sale, and which are in fact available for sale, by the firm when operated by an officer of the corporation, partnership, or proprietorship or by a bona fide full-time employee of the firm, if a card so identifying such individual is carried in the vehicle at all times it is operated by him.

(c) On vehicles being tested for repair.

(d) On vehicles being transported to or from the place of business of the manufacturer and the place of business of the dealer or to and from places of business of the dealer.

(e) On vehicles on which any other item sold or to be sold by the dealer is transported from the place of business of the manufacturer to the place of business of the dealer or to and from places of business of the dealer if such vehicle and such item are purchased or sold as one package.

(5) Manufacturers properly licensed pursuant to this chapter may apply for and obtain manufacturer license plates and may be used:

(a) On vehicles being moved to or from the place of business of a manufacturer to a vehicle dealer within this state who is properly licensed pursuant to this chapter.

(b) To test vehicles for repair.

(6) Vehicle dealer license plates and manufacturer license plates shall not be used for any purpose other than set forth in this section and specifically shall not be:

(a) Used on any vehicle not within the class for which the vehicle dealer or manufacturer license plates are issued unless specifically provided for in this section.

(b) Loaned to any person for any reason not specifically provided for in this section.

(c) Used on any vehicles for the transportation of any person, produce, freight, or commodities unless specifically provided for in this section, except there shall be permitted the use of such vehicle dealer license plates on a vehicle transporting commodities in the course of a demonstration over a period not to exceed seventy-two consecutive hours from the commencement of such demonstration, if a representative of the dealer is present and accompanies such vehicle during the course of the demonstration.

(d) Used on any vehicle sold to a resident of another state to transport such vehicle to that other state in lieu of a trip permit or in lieu of vehicle license plates obtained from that other state.

(7) In addition to or in lieu of any sanction imposed by the director pursuant to RCW 46.70.101 for unauthorized use of vehicle dealer license plates or manufacturer license plates, the director may order that any or all vehicle dealer license plates or manufacturer license plates issued pursuant to this chapter be confiscated for such period as he deems appropriate. [1983 c 3 § 123; 1981 c 152 § 4; 1973 1st ex.s. c 132 § 13; 1971 ex.s. c 74 § 7; 1969 ex.s. c 63 § 3; 1961 c 12 § 46.70.090. Prior: 1955 c 283 § 1; 1951 c 150 § 10.]

RCW 46.70.101 Denial, suspension, or revocation of licenses—Grounds. The director may by order deny, suspend, or revoke the license of any vehicle dealer or vehicle manufacturer or, in lieu thereof or in addition thereto, may by order assess monetary penalties of a civil nature not to exceed one thousand dollars per violation, if the director finds that the order is in the public interest and that the applicant or licensee:

(1) In the case of a vehicle dealer:

(a) The applicant or licensee, or any partner, officer, director, owner of ten percent or more of the assets of the firm, or managing employee:

(i) Was the holder of a license issued pursuant to this chapter, which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of the suspension have not been fulfilled or which license was assessed a civil penalty and the assessed amount has not been paid;

(ii) Has been adjudged guilty of a crime which directly relates to the business of a vehicle dealer and the time elapsed since the adjudication is less than ten years, or suffering any judgment within the preceding five years in any civil action involving fraud, misrepresentation, or conversion. For the purposes of this section, adjudged guilty shall mean in addition to a final conviction in either a state or municipal court, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt regardless of whether the sentence is deferred or the penalty is suspended;

(iii) Has knowingly or with reason to know made a false statement of a material fact in his application for license or any data attached thereto, or in any matter under investigation by the department;

(iv) Does not have an established place of business as required in this chapter;

(v) Refuses to allow representatives or agents of the department to inspect during normal business hours all books, records, and files maintained within this state;

(vi) Sells, exchanges, offers, brokers, auctions, solicits, or advertises a new or current model vehicle to which a factory new vehicle warranty attaches and fails to have a valid, written service agreement as required by this chapter, or having such agreement refuses to honor the terms of such agreement within a reasonable time or repudiates the same;

(vii) Is insolvent, either in the sense that their liabilities exceed their assets, or in the sense that they cannot meet their obligations as they mature;

(viii) Fails to pay any civil monetary penalty assessed by the director pursuant to this section within ten days after such assessment becomes final;

(ix) Fails to notify the department of bankruptcy proceedings in the manner required by RCW 46.70.183;

(x) Knowingly, or with reason to know, allows a salesperson employed by the dealer, or acting as their agent, to commit any of the prohibited practices set forth in subsection (1)(a) of this section and RCV 46.70.180.

(b) The applicant or licensee, or any partner, officer, director, owner of ten percent of the assets of the firm, or any employee or agent:

(i) Has failed to comply with the applicable provisions of chapter 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted thereunder;

(ii) Has defrauded or attempted to defraud the state, or a political subdivision thereof of any taxes or fees in connection with the sale or transfer of a vehicle;

(iii) Has forged the signature of the registered or legal owner on a certificate of title;

(iv) Has purchased, sold, disposed of, or has in his or her possession any vehicle which he or she knows or has reason to know has been stolen or appropriated without the consent of the owner;

(v) Has willfully failed to deliver to a purchaser a certificate of ownership to a vehicle which he has sold;

(vi) Has committed any act in violation of RCW 46.70.090 relating to vehicle dealer license plates or manufacturer license plates;

(vii) Has committed any act in violation of RCW 46.70.180 relating to unlawful acts and practices;

(viii) Has engaged in practices inimical to the health or safety of the citizens of the state of Washington including but not limited to failure to comply with standards set by the state of Washington or the federal government pertaining to the construction or safety of vehicles;

(ix) Has aided or assisted an unlicensed dealer or salesperson in unlawful activity through active or passive participation in sales, allowing use of facilities, dealer license number, or by any other means;

(x) Converts or appropriates, whether temporarily or permanently, property or funds belonging to a customer, dealer, or manufacturer, without the consent of the owner of the property or funds; or

(xi) Has sold any vehicle with knowledge that it has "REBUILT" on the title or has been declared totaled out by an insurance carrier and then rebuilt without clearly disclosing that fact in writing.

(c) The licensee or any partner, officer, director, or owner of ten percent or more of the assets of the firm holds or has held any such position in any other vehicle dealership licensed pursuant to this chapter which is subject to final proceedings under this section.

(2) In the case of a manufacturer, or any partner, officer, director, or majority shareholder:

(a) Was or is the holder of a license issued pursuant to this chapter which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of the suspension have not been fulfilled, or which license was assessed a civil penalty and the assessed amount has not been paid;

(b) Has knowingly or with reason to know, made a false statement of a material fact in his application for license, or any data attached thereto, or in any matter under investigation by the department;

(c) Has failed to comply with the applicable provisions of chapter 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted thereunder;

(d) Has defrauded or attempted to defraud the state or a political subdivision thereof, of any taxes or fees in connection with the sale or transfer of a vehicle;

(e) Has purchased, sold, disposed of, or has in his possession, any vehicle which he knows or has reason to know has been stolen or appropriated without the consent of the owner;

(f) Has committed any act in violation of RCW 46.70.090 relating to vehicle dealer license plates and manufacturer license plates;

(g) Has committed any act in violation of RCW 46.70.180 relating to unlawful acts and practices;

(h) Sells or distributes in this state or transfers into this state for resale, any new or unused vehicle to which a warranty attaches or has attached and refuses to honor the terms of such warranty within a reasonable time or repudiates the same;

(i) Fails to maintain one or more resident employees or agents to provide service or repairs to vehicles located within the state of Washington only under the terms of any warranty attached to new or unused vehicles manufactured and which are or have been sold or distributed in this state or transferred into this state for resale unless such manufacturer requires warranty service to be performed by all of its dealers pursuant to a current service agreement on file with the department;

(j) Fails to reimburse within a reasonable time any vehicle dealer within the state of Washington who in good faith incurs reasonable obligations in giving effect to warranties that attach or have attached to any new or unused vehicle sold or distributed in this state or transferred into this state for resale by any such manufacturer;

(k) Engaged in practices inimical to the health and safety of the citizens of the state of Washington including but not limited to failure to comply with standards set by the state of Washington or the federal government pertaining to the construction and safety of vehicles;

(l) Is insolvent either in the sense that his or her liabilities exceed his or her assets or in the sense that he or she cannot meet his or her obligations as they mature;

(m) Fails to notify the department of bankruptcy proceedings in the manner required by RCW 46.70.183. [1989 c 337 § 16; 1986 c 241 § 13; 1981 c 152 § 5; 1977 ex.s. c 125 § 3; 1973 1st ex.s. c 132 § 14; 1969 ex.s. c 63 § 4; 1967 ex.s. c 74 § 11.]

RCW 46.70.102 Denial, suspension, or revocation of licenses—Notice, hearing, procedure. Upon the entry of the order under RCW 46.70.101 the director shall promptly notify the applicant or licensee that the order has been entered and of the reasons therefor and that if requested by the applicant or licensee within fifteen days after the receipt of the director's notification, the matter will be promptly set down for hearing pursuant to chapter 34.05 RCW. If no hearing is requested and none is ordered by the director, the order will remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, the director, or his personal representative, after notice of and opportunity for hearing, may modify or vacate the order, or extend it until final determination. No final order may be entered under RCW 46.70.101 denying or revoking a license without appropriate prior notice to the applicant or licensee, opportunity for hearing, and written findings of fact and conclusions of law. [1986 c 241 § 14; 1967 ex.s. c 74 § 12.]

RCW 46.70.111 Investigations or proceedings—Powers of director or designees—Penalty. For the purpose of any investigation or proceeding under this chapter, the director or any officer designated by him

may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the director deems relevant or material to the inquiry.

(1) In case of contumacy by, or refusal to obey a subpoena issued to, any person, any court of competent jurisdiction, upon application by the director, may issue to that person an order requiring him to appear before the director, or the officer designated by him, to produce documentary or other evidence touching the matter under investigation or in question. The failure to obey an order of the court may be punishable by contempt. [1967 ex.s. c 74 § 15.]

RCW 46.70.115 Cease and desist orders. If it appears to the director that a person has engaged or is about to engage in an act or practice constituting a violation of this chapter, or a rule adopted or an order issued under this chapter, the director may issue an order directing the person to cease and desist from continuing the act or practice. Reasonable notice of and opportunity for a hearing shall be given. The director may issue a temporary order pending a hearing. The temporary order shall remain in effect until ten days after the hearing is held and shall become final if the person to whom the notice is addressed does not request a hearing within fifteen days after receipt of the notice. [1986 c 241 § 15.]

RCW 46.70.120 Record of transactions. A dealer shall complete and maintain for a period of at least five years a record of the purchase and sale of all vehicles purchased or sold by him. The records shall consist of:

- (1) The license and title numbers of the state in which the last license was issued;
- (2) A description of the vehicle;
- (3) The name and address of person from whom purchased;
- (4) The name of legal owner, if any;
- (5) The name and address of purchaser;
- (6) If purchased from a dealer, the name, business address, dealer license number, and resale tax number of the dealer;
- (7) The price paid for the vehicle and the method of payment;
- (8) The odometer statement given by the seller to the dealer, and the odometer statement given by the dealer to the purchaser;
- (9) The written agreement to allow a dealer to sell between the dealer and the consignor, or the listing dealer and the seller;
- (10) Trust account records of receipts, deposits, and withdrawals;
- (11) All sale documents, which shall show the full name of dealer employees involved in the sale;
- (12) Any additional information the department may require.

Such record shall be maintained separate and apart from all other business records of the dealer and shall at

all times be available for inspection by the director or his duly authorized agent. [1986 c 241 § 16; 1973 1st ex.s. c 132 § 15; 1961 c 12 § 46.70.120. Prior: 1951 c 150 § 15.]

RCW 46.70.125 Used vehicles—Asking price, posting or disclosure. A vehicle dealer who sells used vehicles shall either display on the vehicle, or disclose upon request, the written asking price of a specific vehicle offered for sale by the dealer as of that time.

A violation of this section is an unfair business practice under chapter 19.86 RCW, the Consumer Protection Act, and the provisions of chapter 46.70 RCW. [1986 c 165 § 1.]

RCW 46.70.130 Details of charges must be furnished buyer or mortgagor. Before the execution of a contract or chattel mortgage or the consummation of the sale of any vehicle, the seller must furnish the buyer an itemization in writing signed by the seller separately disclosing to the buyer the finance charge, insurance costs, taxes, and other charges which are paid or to be paid by the buyer. [1973 1st ex.s. c 132 § 16; 1961 c 12 § 46.70.130. Prior: 1951 c 150 § 16.]

RCW 46.70.135 Mobile homes—Warranties and inspections—Advertising of dimensions. (Effective until March 1, 1990.) Mobile home manufacturers and mobile home dealers who sell mobile homes to be assembled on site and used as residences in this state shall conform to the following requirements:

(1) No new manufactured home may be sold unless the purchaser is provided with a manufacturer's written warranty for construction of the home in compliance with the Magnuson-Moss Warranty Act (88 Stat. 2183; 15 U.S.C. Sec. 47 et seq.; 15 U.S.C. Sec. 2301 et seq.).

(2) No new manufactured home may be sold unless the purchaser is provided with a dealer's written warranty for all installation services performed by the dealer.

(3) The warranties required by subsections (1) and (2) of this section shall be valid for a minimum of one year from the date of sale and shall not be invalidated by resale by the original purchaser to a subsequent purchaser. Copies of the warranties shall be given to the purchaser upon signing a purchase agreement and shall include an explanation of remedies available to the purchaser under state and federal law for breach of warranty, the name and address of the federal department of housing and urban development and the state departments of licensing and labor and industries, and a brief description of the duties of these agencies concerning mobile homes.

(4) Warranty service shall be completed within forty-five days after the owner gives written notice of the defect unless there is a bona fide dispute between the parties. Warranty service for a defect affecting health or safety shall be completed within seventy-two hours of receipt of written notice. Warranty service shall be performed on site and a written work order describing labor performed and parts used shall be completed and signed

by the service agent and the owner. If the owner's signature cannot be obtained, the reasons shall be described on the work order. Work orders shall be retained by the dealer or manufacturer for a period of three years.

(5) Before delivery of possession of the home to the purchaser, an inspection shall be performed by the dealer or his agent and by the purchaser or his agent which shall include a test of all systems of the home to insure proper operation. At the time of the inspection, the purchaser shall be given copies of all documents required by state or federal agencies to be supplied by the manufacturer with the home which have not previously been provided as required under subsection (3) of this section, and the dealer shall complete any required purchaser information card and forward the card to the manufacturer.

(6) Manufacturer and dealer advertising which states the dimensions of a home shall not include the length of the draw bar assembly in a listed dimension, and shall state the square footage of the actual floor area. [1981 c 304 § 36.]

Severability—1981 c 304: See note following RCW 26.16.030.

Mobile home installation and warranty service: RCW 43.22.440, 43.22.442.

Mobile home safety and construction standards, inspections, etc.: RCW 43.22.431 through 43.22.434.

RCW 46.70.135 Mobile homes—Warranties and inspections—Advertising of dimensions. (Effective March 1, 1990.) Mobile home manufacturers and mobile home dealers who sell mobile homes to be assembled on site and used as residences in this state shall conform to the following requirements:

(1) No new manufactured home may be sold unless the purchaser is provided with a manufacturer's written warranty for construction of the home in compliance with the Magnuson-Moss Warranty Act (88 Stat. 2183; 15 U.S.C. Sec. 47 et seq.; 15 U.S.C. Sec. 2301 et seq.).

(2) No new manufactured home may be sold unless the purchaser is provided with a dealer's written warranty for all installation services performed by the dealer.

(3) The warranties required by subsections (1) and (2) of this section shall be valid for a minimum of one year from the date of sale and shall not be invalidated by resale by the original purchaser to a subsequent purchaser or by the certificate of ownership being eliminated or not issued as described in chapter 65.20 RCW. Copies of the warranties shall be given to the purchaser upon signing a purchase agreement and shall include an explanation of remedies available to the purchaser under state and federal law for breach of warranty, the name and address of the federal department of housing and urban development and the state departments of licensing and labor and industries, and a brief description of the duties of these agencies concerning mobile homes.

(4) Warranty service shall be completed within forty-five days after the owner gives written notice of the defect unless there is a bona fide dispute between the parties. Warranty service for a defect affecting health or safety shall be completed within seventy-two hours of

receipt of written notice. Warranty service shall be performed on site and a written work order describing labor performed and parts used shall be completed and signed by the service agent and the owner. If the owner's signature cannot be obtained, the reasons shall be described on the work order. Work orders shall be retained by the dealer or manufacturer for a period of three years.

(5) Before delivery of possession of the home to the purchaser, an inspection shall be performed by the dealer or his agent and by the purchaser or his agent which shall include a test of all systems of the home to insure proper operation. At the time of the inspection, the purchaser shall be given copies of all documents required by state or federal agencies to be supplied by the manufacturer with the home which have not previously been provided as required under subsection (3) of this section, and the dealer shall complete any required purchaser information card and forward the card to the manufacturer.

(6) Manufacturer and dealer advertising which states the dimensions of a home shall not include the length of the draw bar assembly in a listed dimension, and shall state the square footage of the actual floor area. [1989 c 343 § 22; 1981 c 304 § 36.]

Severability—Effective date—1989 c 343: See RCW 65.20.940 and 65.20.950.

Severability—1981 c 304: See note following RCW 26.16.030.

Mobile home installation and warranty service: RCW 43.22.440, 43.22.442.

Mobile home safety and construction standards, inspections, etc.: RCW 43.22.431 through 43.22.434.

RCW 46.70.137 Violations relating to mobile/manufactured homes. See RCW 18.27.117.

RCW 46.70.140 Handling "hot" vehicles—Unreported motor "switches"—Unauthorized use of dealer plates—Penalty. Any vehicle dealer who shall knowingly or with reason to know, buy or receive, sell or dispose of, conceal or have in his possession, any vehicle from which the motor or serial number has been removed, defaced, covered, altered, or destroyed, or any dealer, who shall remove from or install in any motor vehicle a new or used motor block without immediately notifying the department of such fact upon a form provided by the department, or any vehicle dealer who shall loan or permit the use of vehicle dealer license plates by any person not entitled to the use thereof, shall be guilty of a gross misdemeanor. [1973 1st ex.s. c 132 § 17; 1971 ex.s. c 74 § 8; 1967 c 32 § 79; 1961 c 12 § 46.70.140. Prior: 1951 c 150 § 11.]

RCW 46.70.150 Violations—Additional penalties as to license and plates. The director may, when informed of the conviction of any dealer of the violation of any of the provisions of this chapter, in addition to penalties imposed by the court, require the surrender of the dealer license and dealer license plates, and may thereupon suspend such license for a period of not less than thirty days or not more than one year, or he may confiscate the dealer license plates that have been issued to

such dealer for the current license year. [1961 c 12 § 46.70.150. Prior: 1951 c 150 § 12.]

RCW 46.70.160 Rules and regulations. The director may make any reasonable rules and regulations not inconsistent with the provisions of chapter 46.70 RCW relating to the enforcement and proper operation thereof. [1961 c 12 § 46.70.160. Prior: 1959 c 166 § 21.]

RCW 46.70.170 Penalty for violations. It is a misdemeanor for any person to violate any of the provisions of this chapter, except where expressly provided otherwise, and the rules adopted as provided under this chapter. [1986 c 241 § 17; 1965 c 68 § 5.]

Rules of court: Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.

RCW 46.70.180 Unlawful acts and practices. Each of the following acts or practices is unlawful:

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

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

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

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

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

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

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

(3) To set up, promote, or aid in the promotion of a plan by which vehicles are to be sold to a person for a consideration and upon further consideration that the purchaser agrees to secure one or more persons to participate in the plan by respectively making a similar purchase and in turn agreeing to secure one or more

persons likewise to join in said plan, each purchaser being given the right to secure money, credits, goods, or something of value, depending upon the number of persons joining the plan.

(4) To commit, allow, or ratify any act of "bushing" which is defined as follows: Taking from a prospective buyer of a vehicle a written order or offer to purchase, or a contract document signed by the buyer, which:

(a) Is subject to the dealer's, or his authorized representative's future acceptance, and the dealer fails or refuses within forty-eight hours, exclusive of Saturday, Sunday, or legal holiday, and prior to any further negotiations with said buyer, to deliver to the buyer either the dealer's signed acceptance or all copies of the order, offer, or contract document together with any initial payment or security made or given by the buyer, including but not limited to money, check, promissory note, vehicle keys, a trade-in, or certificate of title to a trade-in; or

(b) Permits the dealer to renegotiate a dollar amount specified as trade-in allowance on a vehicle delivered or to be delivered by the buyer as part of the purchase price, for any reason except substantial physical damage or latent mechanical defect occurring before the dealer took possession of the vehicle and which could not have been reasonably discoverable at the time of the taking of the order, offer, or contract; or

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

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

(6) For any vehicle dealer or vehicle salesman to refuse to furnish, upon request of a prospective purchaser, the name and address of the previous registered owner of any used vehicle offered for sale.

(7) To commit any other offense under RCW 46.37-.423, 46.37.424, or 46.37.425.

(8) To commit any offense relating to a dealer's temporary license permit, including but not limited to failure to properly complete each such permit, or the issuance of more than one such permit on any one vehicle.

(9) For a dealer, salesman, or mobile home manufacturer, having taken an instrument or cash "on deposit" from a purchaser prior to the delivery of the bargained-for vehicle, to commingle said "on deposit" funds with assets of the dealer, salesman, or mobile home manufacturer instead of holding said "on deposit" funds as trustee in a separate trust account until the purchaser has taken delivery of the bargained-for vehicle. Failure, immediately upon receipt, to endorse "on deposit" instruments to such a trust account, or to set aside "on deposit" cash for deposit in such trust account, and failure to deposit such instruments or cash in such trust account by the close of banking hours on the day following receipt thereof, shall be evidence of intent to commit this

unlawful practice: *Provided, however,* That a motor vehicle dealer may keep a separate trust account which equals his customary total customer deposits for vehicles for future delivery.

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

(11) Being a manufacturer, other than a motorcycle manufacturer governed by chapter 46.94 RCW, to:

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

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

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

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

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

(f) To provide under the terms of any warranty that a purchaser of any new or unused vehicle that has been sold, distributed for sale, or transferred into this state for resale by the vehicle manufacturer may only make any warranty claim on any item included as an integral part of the vehicle against the manufacturer of that item.

Nothing in this section may be construed to impair the obligations of a contract or to prevent a manufacturer, distributor, representative, or any other person, whether or not licensed under this chapter, from requiring performance of a written contract entered into with any licensee hereunder, nor does the requirement of such performance constitute a violation of any of the provisions of this section if any such contract or the terms thereof requiring performance, have been freely entered into and executed between the contracting parties. This paragraph and subsection (11)(b) of this section do not apply to new motor vehicle manufacturers governed by chapter 46.96 RCW. [1989 c 415 § 20; 1986 c 241 § 18; 1985 c 472 § 13; 1981 c 152 § 6; 1977 ex.s. c 125 § 4; 1973 1st ex.s. c 132 § 18; 1969 c 112 § 1; 1967 ex.s. c 74 § 16.]

Severability—1989 c 415: See RCW 46.96.900.

Severability—1985 c 472: See RCW 46.94.900.

Odometers—Disconnecting, resetting, turning back, replacing without notifying purchaser: RCW 46.37.540 through 46.37.570.

RCW 46.70.183 Notice of bankruptcy proceedings. Any vehicle dealer or manufacturer, by or against whom a petition in bankruptcy has been filed, shall, within ten days of the filing, notify the department of the proceedings in bankruptcy, including the identity and location of the court in which the proceedings are pending. [1981 c 152 § 7.]

RCW 46.70.190 Civil actions for violations—Injunctions—Claims under Federal Automobile Dealer Franchise Act—Time limitation. Any person who is injured in his or her property by a violation of this chapter, or a person who is injured because he refuses to accede to a proposed arrangement which, if consummated, would be in violation of this chapter, may bring a civil action in the superior court to enjoin further violations, to recover the actual damages sustained by him together with the costs of the suit, including a reasonable attorney's fee.

If a new motor vehicle dealer recovers a judgment or has a claim dismissed with prejudice against a manufacturer under RCW 46.96.040 or 46.96.050(3) or this section, the new motor vehicle dealer is precluded from pursuing that same claim or recovering judgment for that same claim against the same manufacturer under the federal Automobile Dealer Franchise Act, 15 U.S.C. Sections 1221 through 1225, but only to the extent that the damages recovered by or denied to the new motor vehicle dealer are the same as the damages being sought under the federal Automobile Dealer Franchise Act. Likewise, if a new motor vehicle dealer recovers a judgment or has a claim dismissed with prejudice against a manufacturer under the federal Automobile Dealer Franchise Act, the dealer is precluded from pursuing

that same claim or recovering judgment for that same claim against the same manufacturer under this chapter, but only to the extent that the damages recovered by or denied to the dealer are the same as the damages being sought under this chapter.

A civil action brought in the superior court pursuant to the provisions of this section must be filed no later than one year following the alleged violation of this chapter. [1989 c 415 § 21; 1986 c 241 § 19; 1973 1st ex.s. c 132 § 19; 1967 ex.s. c 74 § 21.]

Severability—1989 c 415: See RCW 46.96.900.

RCW 46.70.220 Duties of attorney general and prosecuting attorneys to act on violations—Limitation of civil actions. The director may refer such evidence as may be available concerning violations of this chapter or of any rule or order hereunder to the attorney general or the proper prosecuting attorney, who may in his discretion, with or without such a reference, in addition to any other action they might commence, bring an action in the name of the state against any person to restrain and prevent the doing of any act or practice herein prohibited or declared unlawful: *Provided*, That this chapter shall be considered in conjunction with chapter 9.04 RCW, 19.86 RCW and 63.14 RCW and the powers and duties of the attorney general and the prosecuting attorney as they may appear in the aforementioned chapters, shall apply against all persons subject to this chapter: *Provided further*, That any action to enforce a claim for civil damages under chapter 19.86 RCW shall be forever barred unless commenced within six years after the cause of action accrues. [1967 ex.s. c 74 § 19.]

RCW 46.70.230 Duties of attorney general and prosecuting attorneys to act on violations—Assurance of compliance—Filing. In the enforcement of this chapter, the attorney general and/or any said prosecuting attorney may accept an assurance of compliance with the provisions of this chapter from any person deemed in violation hereof. Any such assurance shall be in writing and be filed with and subject to the approval of the superior court of the county in which the alleged violator resides or has his principal place of business, or in Thurston county. [1967 ex.s. c 74 § 20.]

RCW 46.70.240 Penalties—Jurisdiction. Any person who violates the terms of any court order, or temporary or permanent injunction issued pursuant to this chapter, shall forfeit and pay a civil penalty of not more than twenty-five thousand dollars. For the purpose of this section the superior court issuing any injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the attorney general and/or the prosecuting attorney acting in the name of the state, or any person who pursuant to RCW 46.70.190 has secured the injunction violated, may petition for the recovery of civil penalties. [1967 ex.s. c 74 § 22.]

RCW 46.70.250 Personal service of process outside state. Personal service of any process in an action under this chapter may be made upon any person outside the

state if such person has engaged in conduct in violation of this chapter which has had the impact in this state which this chapter reprehends. Such person shall be deemed to have thereby submitted himself to the jurisdiction of the courts of this state within the meaning of RCW 4.28.180 and 4.28.185. [1967 ex.s. c 74 § 23.]

RCW 46.70.260 Application of chapter to existing and future franchises and contracts. The provisions of this chapter shall be applicable to all franchises and contracts existing between vehicle dealers and manufacturers or factory branches and to all future franchises and contracts. [1986 c 241 § 22; 1967 ex.s. c 74 § 24.]

RCW 46.70.270 Provisions of chapter cumulative—Violation of RCW 46.70.180 deemed civil. The provisions of this chapter shall be cumulative to existing laws: *Provided*, That the violation of RCW 46.70.180 shall be construed as exclusively civil and not penal in nature. [1967 ex.s. c 74 § 25.]

RCW 46.70.290 Application of chapter to mobile homes and persons engaged in distribution and sale thereof. The provisions of chapter 46.70 RCW shall apply to the distribution and sale of mobile homes and to mobile home dealers, salesmen, distributors, manufacturers, factory representatives, or other persons engaged in such distribution and sale to the same extent as for motor vehicles. [1971 ex.s. c 231 § 23.]

Effective date—1971 ex.s. c 231: See note following RCW 46.01.130.

RCW 46.70.300 Provisions of chapter exclusive—Local business and occupation tax not prevented. (1) The provisions of this chapter relating to the licensing and regulation of vehicle dealers, salesmen, and manufacturers shall be exclusive and no county, city, or other political subdivision of this state shall enact any laws, rules, or regulations licensing or regulating vehicle dealers, salesmen, or manufacturers.

(2) This section shall not be construed to prevent a political subdivision of this state from levying a business and occupation tax upon vehicle dealers or manufacturers maintaining an office within that political subdivision if a business and occupation tax is levied by such a political subdivision upon other types of businesses within its boundaries. [1981 c 152 § 2.]

RCW 46.70.310 Violation of Consumer Protection Act. Any violation of this chapter is deemed to affect the public interest and constitutes a violation of chapter 19.86 RCW. [1986 c 241 § 23.]

RCW 46.70.900 Liberal construction. All provisions of this chapter shall be liberally construed so the end that deceptive practices or commission of fraud or misrepresentation in the sale, barter, or disposition of vehicles in this state may be prohibited and prevented, and irresponsible, unreliable, or dishonest persons may be prevented from engaging in the business of selling, bartering, or otherwise dealing in vehicles in this state and

reliable persons may be encouraged to engage in the business of selling, bartering and otherwise dealing in vehicles in this state: *Provided*, That this chapter shall not apply to printers, publishers, or broadcasters who in good faith print, publish or broadcast material without knowledge of its deceptive character. [1973 1st ex.s. c 132 § 20; 1967 ex.s. c 74 § 2.]

RCW 46.70.910 Severability—1967 ex.s. c 74. If any provision of this amendatory act is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of the amendatory act and the applicability thereof to persons and circumstances shall not be affected thereby. [1967 ex.s. c 74 § 28.]

RCW 46.70.920 Severability—1973 1st ex.s. c 132. If any provision of this 1973 amendatory act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this 1973 amendatory act and the applicability thereof to persons and circumstances shall not be affected thereby. [1973 1st ex.s. c 132 § 21.]