
ENGROSSED SUBSTITUTE SENATE BILL 5112

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Labor, Commerce, Research & Development
(originally sponsored by Senators Schoesler, Kohl-Welles, Rasmussen,
Pridemore, Clements, Sheldon, Morton, Hatfield and Honeyford)

READ FIRST TIME 02/05/07.

1 AN ACT Relating to auctioning vessels; and amending RCW 88.02.230
2 and 46.70.011.

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

4 **Sec. 1.** RCW 88.02.230 and 1990 c 250 s 90 are each amended to read
5 as follows:

6 (1) The department may exempt from compliance with the vessel
7 dealer requirements of this chapter, any person who is engaged in the
8 business of selling in this state at wholesale or retail, human-powered
9 watercraft which is: (a) Under sixteen feet in length; (b) unable to
10 be powered by propulsion machinery or wind propulsion as designed by
11 the manufacturer; and (c) not designed for use on commonly-used
12 navigable waters.

13 (2) Any person engaged in the business of selling at wholesale or
14 retail, exempt and nonexempt watercraft under this section shall only
15 be required to comply with the provisions of this chapter in regard to
16 the sale of nonexempt watercraft.

17 (3) An auction company licensed under chapter 18.11 RCW and
18 licensed as a motor vehicle dealer under chapter 46.70 RCW may sell at
19 auction, without registering as a vessel dealer, all vessels that a

1 vessel dealer is authorized to sell, so long as the sale of vessels is
2 incidental to the auction company's primary source of business and the
3 length of any vessel being sold is no greater than twenty-five feet.
4 The auction company shall comply with all other vessel dealer
5 requirements of this chapter and rules adopted under this chapter if
6 the registration fees established in WAC 308-90-080 and RCW 88.02.060
7 are waived.

8 **Sec. 2.** RCW 46.70.011 and 2006 c 364 s 1 are each amended to read
9 as follows:

10 As used in this chapter:

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

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

21 (3) "Recreational vehicle" means a travel trailer, motor home,
22 truck camper, or camping trailer that is primarily designed and used as
23 temporary living quarters, is either self-propelled or mounted on or
24 drawn by another vehicle, is transient, is not occupied as a primary
25 residence, and is not immobilized or permanently affixed to a mobile
26 home lot.

27 (4) "Vehicle dealer" means any person, firm, association,
28 corporation, or trust, not excluded by subsection (5) of this section,
29 engaged in the business of buying, selling, listing, exchanging,
30 offering, brokering, leasing with an option to purchase, auctioning,
31 soliciting, or advertising the sale of new or used vehicles, or
32 arranging or offering or attempting to solicit or negotiate on behalf
33 of others, a sale, purchase, or exchange of an interest in new or used
34 motor vehicles, irrespective of whether the motor vehicles are owned by
35 that person. Vehicle dealers shall be classified as follows:

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

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

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

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

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

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

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

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

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

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

27 (f) A real estate broker licensed under chapter 18.85 RCW, or an
28 affiliated licensee, who, on behalf of another negotiates the purchase,
29 sale, lease, or exchange of a manufactured or mobile home in
30 conjunction with the purchase, sale, exchange, rental, or lease of the
31 land upon which the manufactured or mobile home is, or will be,
32 located; or

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

37 (h) Any bank, trust company, savings bank, mutual savings bank,
38 savings and loan association, credit union, and any parent, subsidiary,

1 or affiliate thereof, authorized to do business in this state under
2 state or federal law with respect to the sale or other disposition of
3 a motor vehicle owned and used in their business; or with respect to
4 the acquisition and sale or other disposition of a motor vehicle in
5 which the entity has acquired an interest as a lessor, lessee, or
6 secured party; or

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

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

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

16 (8) "Director" means the director of licensing.

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

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

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

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

37 (10) "Established place of business" means a location meeting the

1 requirements of RCW 46.70.023(1) at which a vehicle dealer conducts
2 business in this state.

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

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

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

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

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

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

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

32 (18) "Auction company" means a sole proprietorship, partnership,
33 corporation, or other legal or commercial entity licensed under chapter
34 18.11 RCW that only sells or offers to sell vehicles or vessels at
35 auction or only arranges or sponsors auctions. The auction company
36 shall comply with the vessel dealer requirements of chapter 88.02 RCW
37 and rules adopted under chapter 88.02 RCW if the bonding provisions of

1 RCW 18.11.121, when in force, replace the bonding provisions of RCW
2 88.02.060.

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

9 (20) "New motor vehicle" means any motor vehicle that is self-
10 propelled and is required to be registered and titled under Title 46
11 RCW, has not been previously titled to a retail purchaser or lessee,
12 and is not a "used vehicle" as defined under RCW 46.04.660.

--- END ---