

HOUSE BILL REPORT

HB 1827

As Reported by House Committee On:
Commerce & Labor

Title: An act relating to financing practices of motor vehicle dealers.

Brief Description: Refining the definition of "bushing."

Sponsors: Representatives Wood, Condotta, McCoy, Crouse and Conway.

Brief History:

Committee Activity:

Commerce & Labor: 1/25/06, 1/26/06 [DPS].

Brief Summary of Substitute Bill

- Modifies the prohibition on "bushing" by applying it to situations in which a contract has been signed, increasing to four days the time allotted for a dealer to give unconditional acceptance or rejection of an offer, and preserving a dealer's right to assert a claim against a buyer for misrepresentations made during the sale or lease of a vehicle.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse, Holmquist, Hudgins, Kenney and McCoy.

Staff: Lara Zarowsky (786-7119).

Background:

If an offer to purchase or lease a vehicle is accepted contingent on securing financing, or on some other factor, the auto dealer must give final acceptance or rejection of the offer within three days (excluding Saturdays, Sundays, and holidays), without further negotiation. This means, for example, an offer made on Tuesday must be accepted or rejected by Friday. If the dealer rejects the agreement, any money, trade-in vehicle, or anything else given as initial payment or security must be returned, and the deal must be called off, before there can be any attempt to reopen negotiations.

Dealers may renegotiate the dollar amount of the trade-in allowance given to a buyer in only three situations: (1) The buyer fails to disclose that the title to the vehicle is branded, because

the vehicle is rebuilt or for some other reason; (2) the vehicle has serious physical damage or mechanical defect that could not reasonably have been discovered when the offer was accepted; or (3) excessive additional miles are reflected on the vehicle's odometer between the time the vehicle was first valued and the time it was delivered.

Failure to adhere to the three-day limit to accept or reject, without renegotiation, an agreement to purchase or lease a motor vehicle is called "bushing." Bushing has been prohibited in statute since 1967, when Washington first specified unlawful practices for motor vehicle dealers.

Dealers typically use the time before the acceptance of an offer to obtain financing for the prospective buyer. In 1967, dealers were given two business days to complete these arrangements. The period was extended to three business days in 1997.

Summary of Substitute Bill:

The prohibition on bushing is amended to:

- apply only to situations where there is a contract signed by the buyer or lessee;
- clarify that the dealer has four calendar days, excluding Saturdays, Sundays and holidays, to inform the buyer or lessee either: that the dealer unconditionally accepts the contract or lease, having satisfied, removed or waived all conditions to acceptance or performance, or that the dealer rejects the contract or lease;
- preserve the right of a dealer to take legal action against a buyer or lessee who is not truthful about income, employment, or debt in applying for financing or a lease (unless the dealer was involved in the deception); and
- require the dealer to communicate unconditional acceptance or rejection by a second method when the initial communication was made by e-mail.

The dealer may inform the buyer or lessee of whether an offer has been accepted without signed documentation.

The provisions of the substitute bill apply prospectively only and not retroactively.

Substitute Bill Compared to Original Bill:

The prohibition against bushing applies to a contract or lease subject to "any conditions" or the dealer's future acceptance, and language specific to financing as a condition of future acceptance is deleted. Dealers are required to give unconditional acceptance or rejection of an offer within four days, and are required to use a second method of notification when the initial communication is made by e-mail. A list of written instruments qualifying as a "contract or lease" for purposes of bushing is added. The provisions of the bill are to be applied only prospectively.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (Substitute bill) This bill is a product of negotiated compromise between the Attorney General's Office, consumer advocates and Washington auto dealers. The bill will resolve issues in a way that is satisfactory to all interested parties.

Testimony Against: None.

Persons Testifying: Scott Hazelgrove, Washington State Auto Dealer's Association.

Persons Signed In To Testify But Not Testifying: None.