

2 **HB 2501 - H AMD 820 ADOPTED 2-10-98**

3 By Representatives Zellinsky and K. Schmidt

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5 Strike everything after the enacting clause and insert the
6 following:

7 "**Sec. 1.** RCW 46.70.011 and 1996 c 194 s 1 are each amended to read
8 as follows:

9 As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (12) "Temporary subagency" means a location other than the
35 principal place of business or subagency within the state where a
36 licensed vehicle dealer may secure a license to conduct the business
37 and is licensed for a period of time not to exceed ten days for a
38 specific purpose such as auto shows, shopping center promotions, tent
39 sales, exhibitions, or similar merchandising ventures. No more than

1 six temporary subagency licenses may be issued to a licensee in any
2 twelve-month period.

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

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

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

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

15 (17) "Auction company" means a sole proprietorship, partnership,
16 corporation, or other legal or commercial entity licensed under chapter
17 18.11 RCW that only sells or offers to sell vehicles at auction or only
18 arranges or sponsors auctions.

19 (18) "Buyer's agent" means any person, firm, partnership,
20 association, limited liability company, limited liability partnership,
21 or corporation retained or employed by a consumer to arrange for or to
22 negotiate, or both, the purchase of a new motor vehicle on behalf of
23 the consumer, and who is paid a fee or receives other compensation from
24 the consumer for its services.

25 (19) "New motor vehicle" means any motor vehicle that is self-
26 propelled and is required to be registered and titled under Title 46
27 RCW, has not been previously titled to a retail purchaser or lessee,
28 and is not a "used vehicle" as defined under RCW 46.04.660.

29 (20) "Wholesale motor vehicle auction dealer" is any person or firm
30 offering motor vehicles for sale by competitive bidding at a permanent
31 location and regularly scheduled dates and times. A wholesale motor
32 vehicle auction dealer may:

33 (a) Sell any classification of motor vehicle;

34 (b) Sell only to motor vehicle dealers and vehicle wreckers
35 licensed under Title 46 RCW by the state of Washington or licensed by
36 any other state; or

37 (c) Sell any motor vehicle belonging to the United States
38 government, the state of Washington, and any political subdivision to
39 nonlicensed persons as may be required by the contracting public

1 agency. However, any publicly owned "wrecked vehicle" as defined in
2 RCW 46.80.010 may be sold to motor vehicle dealers and vehicle wreckers
3 licensed under Title 46 RCW by the state of Washington or licensed by
4 any other state.

5 **Sec. 2.** RCW 46.79.010 and 1990 c 250 s 69 are each amended to read
6 as follows:

7 The definitions set forth in this section apply throughout this
8 chapter unless the context indicates otherwise.

9 (1) "Junk vehicle" means a motor vehicle certified under RCW
10 46.55.230 as meeting all the following requirements:

11 (a) Is three years old or older;

12 (b) Is extensively damaged, such damage including but not limited
13 to any of the following: A broken window or windshield or missing
14 wheels, tires, motor, or transmission;

15 (c) Is apparently inoperable;

16 (d) Is without a valid, current registration plate;

17 (e) Has a fair market value equal only to the value of the scrap in
18 it.

19 (2) "Scrap processor" means a licensed establishment that maintains
20 a hydraulic baler and shears, or a shredder for recycling salvage.

21 (3) "Demolish" means to destroy completely by use of a hydraulic
22 baler and shears, or a shredder.

23 (4) "Hulk hauler" means any person who deals in vehicles for the
24 sole purpose of transporting and/or selling them to a licensed
25 (~~motor~~) vehicle wrecker or scrap processor in substantially the same
26 form in which they are obtained. A hulk hauler may not sell second-
27 hand motor vehicle parts to anyone other than a licensed vehicle
28 wrecker or scrap processor, except for those parts specifically
29 enumerated in RCW 46.79.020(2), as now or hereafter amended, which may
30 be sold to a licensed (~~motor~~) vehicle wrecker or disposed of at a
31 public facility for waste disposal.

32 (5) "Director" means the director of licensing.

33 (6) "Major component parts" include engines and short blocks,
34 frames, transmissions or transfer cases, cabs, doors, front or rear
35 differentials, front or rear clips, quarter panels or fenders, bumpers,
36 truck beds or boxes, seats, and hoods.

37 (7) "Wholesale motor vehicle auction dealer" is any person or firm
38 offering motor vehicles for sale by competitive bidding at a permanent

1 location and regularly scheduled dates and times. A wholesale motor
2 vehicle auction dealer may:

3 (a) Sell any classification of motor vehicle;

4 (b) Sell only to motor vehicle dealers and vehicle wreckers
5 licensed under Title 46 RCW by the state of Washington or licensed by
6 any other state; or

7 (c) Sell any motor vehicle belonging to the United States
8 government, the state of Washington, and any political subdivision to
9 nonlicensed persons as may be required by the contracting public
10 agency. However, any publicly owned "wrecked vehicle" as defined in
11 RCW 46.80.010 may be sold to motor vehicle dealers and vehicle wreckers
12 licensed under Title 46 RCW by the state of Washington or licensed by
13 any other state.

14 **Sec. 3.** RCW 46.80.010 and 1995 c 256 s 4 are each amended to read
15 as follows:

16 The definitions set forth in this section apply throughout this
17 chapter.

18 (1) "Vehicle wrecker" means every person, firm, partnership,
19 association, or corporation engaged in the business of buying, selling,
20 or dealing in vehicles of a type required to be licensed under the laws
21 of this state, for the purpose of wrecking, dismantling, disassembling,
22 or substantially changing the form of a vehicle, or who buys or sells
23 integral second-hand parts of component material thereof, in whole or
24 in part, or who deals in second-hand vehicle parts.

25 (2) "Established place of business" means a building or enclosure
26 which the vehicle wrecker occupies either continuously or at regular
27 periods and where his books and records are kept and business is
28 transacted and which must conform with zoning regulations.

29 (3) "Major component part" includes at least each of the following
30 vehicle parts: (a) Engines and short blocks; (b) frame; (c)
31 transmission and/or transfer case; (d) cab; (e) door; (f) front or rear
32 differential; (g) front or rear clip; (h) quarter panel; (i) truck bed
33 or box; (j) seat; (k) hood; (l) bumper; (m) fender; and (n) airbag.
34 The director may supplement this list by rule.

35 (4) "Wrecked vehicle" means a vehicle which is disassembled or
36 dismantled or a vehicle which is acquired with the intent to dismantle
37 or disassemble and never again to operate as a vehicle, or a vehicle
38 which has sustained such damage that its cost to repair exceeds the

1 fair market value of a like vehicle which has not sustained such
2 damage, or a damaged vehicle whose salvage value plus cost to repair
3 equals or exceeds its fair market value, if repaired, or a vehicle
4 which has sustained such damage or deterioration that it may not
5 lawfully operate upon the highways of this state for which the salvage
6 value plus cost to repair exceeds its fair market value, if repaired;
7 further, it is presumed that a vehicle is a wreck if it has sustained
8 such damage or deterioration that it may not lawfully operate upon the
9 highways of this state.

10 (5) "Wholesale motor vehicle auction dealer" is any person or firm
11 offering motor vehicles for sale by competitive bidding at a permanent
12 location and regularly scheduled dates and times. A wholesale motor
13 vehicle auction dealer may:

14 (a) Sell any classification of motor vehicle;

15 (b) Sell only to motor vehicle dealers and vehicle wreckers
16 licensed under Title 46 RCW by the state of Washington or licensed by
17 any other state; or

18 (c) Sell any motor vehicle belonging to the United States
19 government, the state of Washington, and any political subdivision to
20 nonlicensed persons as may be required by the contracting public
21 agency. However, any publicly owned "wrecked vehicle" as defined in
22 RCW 46.80.010 may be sold to motor vehicle dealers and vehicle wreckers
23 licensed under Title 46 RCW by the state of Washington or licensed by
24 any other state.

25 **Sec. 4.** RCW 46.70.101 and 1996 c 282 s 3 are each amended to read
26 as follows:

27 The director may by order deny, suspend, or revoke the license of
28 any vehicle dealer or vehicle manufacturer or, in lieu thereof or in
29 addition thereto, may by order assess monetary penalties of a civil
30 nature not to exceed one thousand dollars per violation, if the
31 director finds that the order is in the public interest and that the
32 applicant or licensee:

33 (1) In the case of a vehicle dealer:

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

37 (i) Was the holder of a license issued pursuant to this chapter,
38 which was revoked for cause and never reissued by the department, or

1 which license was suspended for cause and the terms of the suspension
2 have not been fulfilled or which license was assessed a civil penalty
3 and the assessed amount has not been paid;

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

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

17 (iv) Has knowingly, or with reason to know, provided the department
18 with false information relating to the number of vehicle sales
19 transacted during the past one year in order to obtain a vehicle dealer
20 license plate;

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

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

26 (vii) Sells, exchanges, offers, brokers, auctions, solicits, or
27 advertises a new or current model vehicle to which a factory new
28 vehicle warranty attaches and fails to have a valid, written service
29 agreement as required by this chapter, or having such agreement refuses
30 to honor the terms of such agreement within a reasonable time or
31 repudiates the same, except for sales by wholesale motor vehicle
32 auction dealers to franchise motor vehicle dealers licensed under Title
33 46 RCW or franchise motor vehicle dealers licensed by any other state;

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

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

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

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

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

10 (i) Has failed to comply with the applicable provisions of chapter
11 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted
12 thereunder;

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

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

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

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

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

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

27 (viii) Has engaged in practices inimical to the health or safety of
28 the citizens of the state of Washington including but not limited to
29 failure to comply with standards set by the state of Washington or the
30 federal government pertaining to the construction or safety of
31 vehicles, except for sales by wholesale motor vehicle auction dealers
32 to motor vehicle dealers and vehicle wreckers licensed under Title 46
33 RCW or motor vehicle dealers licensed by any other state;

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

1 (x) Converts or appropriates, whether temporarily or permanently,
2 property or funds belonging to a customer, dealer, or manufacturer,
3 without the consent of the owner of the property or funds; or
4 (xi) Has sold any vehicle with actual knowledge that:
5 (A) It has any of the following brands on the title:
6 "SALVAGE/REBUILT," "JUNK," or "DESTROYED"; or
7 (B) It has been declared totaled out by an insurance carrier and
8 then rebuilt; or
9 (C) The vehicle title contains the specific comment that the
10 vehicle is "rebuilt";
11 without clearly disclosing that brand or comment in writing.
12 (c) The licensee or any partner, officer, director, or owner of ten
13 percent or more of the assets of the firm holds or has held any such
14 position in any other vehicle dealership licensed pursuant to this
15 chapter which is subject to final proceedings under this section.
16 (2) In the case of a manufacturer, or any partner, officer,
17 director, or majority shareholder:
18 (a) Was or is the holder of a license issued pursuant to this
19 chapter which was revoked for cause and never reissued by the
20 department, or which license was suspended for cause and the terms of
21 the suspension have not been fulfilled, or which license was assessed
22 a civil penalty and the assessed amount has not been paid;
23 (b) Has knowingly or with reason to know, made a false statement of
24 a material fact in his application for license, or any data attached
25 thereto, or in any matter under investigation by the department;
26 (c) Has failed to comply with the applicable provisions of chapter
27 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted
28 thereunder;
29 (d) Has defrauded or attempted to defraud the state or a political
30 subdivision thereof, of any taxes or fees in connection with the sale
31 or transfer of a vehicle;
32 (e) Has purchased, sold, disposed of, or has in his possession, any
33 vehicle which he knows or has reason to know has been stolen or
34 appropriated without the consent of the owner;
35 (f) Has committed any act in violation of RCW 46.70.090 relating to
36 vehicle dealer license plates and manufacturer license plates;
37 (g) Has committed any act in violation of RCW 46.70.180 relating to
38 unlawful acts and practices;

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

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

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

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

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

26 (m) Fails to notify the department of bankruptcy proceedings in the
27 manner required by RCW 46.70.183."

28 **HB 2501** - H AMD

29 By Representatives Zellinsky and K. Schmidt

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31 On page 1, line 1 of the title, after "auctions;" strike the
32 remainder of the title and insert "and amending RCW 46.70.011,
33 46.79.010, 46.80.010, and 46.70.101."

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