

of expenditures incurred during the quarter and make the appropriate treasurer's remittance to the current expense or salary fund. The proportionate share charged against each fund shall be determined by the relationship between the unreimbursed expenditures and the total credits of the courts to each fund as required by RCW 3.62.020. Balances remaining in governmental funds shall then be remitted as provided by law.

Passed the House February 4, 1969.

Passed the Senate March 10, 1969.

Approved by the Governor March 25, 1969.

Filed in office of Secretary of State March 25, 1969.

CHAPTER 112  
[House Bill No. 146]  
MOTOR VEHICLE SALES PRACTICES--  
ODOMETERS--PRIOR OWNERS

AN ACT Relating to motor vehicles; amending section 16, chapter 74, Laws of 1967 ex. sess. and RCW 46.70.180; adding new sections to chapter 46.37 RCW; and prescribing penalties.

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

Section 1. Section 16, chapter 74, Laws of 1967 ex. sess. and RCW 46.70.180 are each amended to read as follows:

Each of the following acts or practices is hereby declared 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 motor 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 motor vehicle when a down payment is in fact required, or that a motor vehicle may be purchased for less down payment that is actually required;

(b) That a certain percentage of the sale price of a motor 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 motor 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 motor vehicle to be sold;

(e) That a motor 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 motor 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 motor 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 motor 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 motor 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 motor vehicle, delivered or to be delivered by the buyer as part of the purchase price, because of depreciation, obsolescence, or any other reason except substantial and latent mechanical defect that could not have been reasonably discovered at the time of the taking of said order, offer or contract: PROVIDED, That said physical damage or mechanical defect shall have occurred before the dealer took possession of the vehicle; 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.

(5) To commit any offense relating to odometers, as such offenses are defined in sections 2, 3, 4 and 5 of this 1969 amendatory act;

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

(7) Being a manufacturer, distributor, or factory representative or branch to:

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

(b) Cancel, or, fail to renew the franchise or selling agreement of any motor 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: (1) The capital investment shall have been entered into with reasonable and prudent business judgment for the purpose of fulfilling the franchise; and (2) Said cancellation or nonrenewal was not done in good faith. Good faith shall be 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 shall not be deemed to constitute a lack of good faith.

(c) Encourage, aid, abet or teach a motor vehicle dealer to sell motor 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 motor 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 motor vehicle publicly advertised for immediate delivery to any duly licensed motor vehicle dealer having a franchise or contractual agreement for the retail sale of new and unused motor vehicles sold or distributed by such manufacturer, distributor, or factory representative or branch, within sixty days after such dealer's order shall have been received in writing unless caused by inability to deliver because of shortage or curtailment of material, labor, transportation or utility services, or to any labor or production difficulty, or to any cause beyond the reasonable control of the manufacturer.

~~((6))~~ (8) Nothing in this section shall 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 shall the requirement of such performance constitute a violation of any of the provisions of this section: PROVIDED, HOWEVER, Any such contract, or the terms thereof, requiring performance, shall have been theretofore freely entered into and executed between the contracting parties.

NEW SECTION. Sec. 2. There is added to chapter 46.37 RCW a new section to read as follows:

Except as provided by section 6 of this 1969 amendatory act, it shall be unlawful for any person to disconnect, turn back or reset the odometer of any motor vehicle with the intent to reduce the number of miles indicated on the odometer gauge.

NEW SECTION. Sec. 3. There is added to chapter 46.37 RCW a new section to read as follows:

It shall be unlawful for any person to sell a motor vehicle in this state if such person has knowledge that the odometer on such motor vehicle has been turned back and if such person fails to notify the buyer, prior to the time of sale, that the odometer has been turned back or that he had reason to believe that the odometer has been turned back.

NEW SECTION. Sec. 4. There is added to chapter 46.37 RCW a new section to read as follows:

It shall be unlawful for any person to sell a motor vehicle in this state if such person has knowledge that the odometer on such motor vehicle has been replaced with another odometer and if such person fails to notify the buyer, prior to the time of sale, that the odometer has been replaced or that he believes the odometer to have been replaced.

NEW SECTION. Sec. 5. There is added to chapter 46.37 RCW a new section to read as follows:

It shall be unlawful for any person to advertise for sale, to sell, to use, or to install on any part of a motor vehicle or on an odometer in a motor vehicle any device which causes the odometer to register any mileage other than the true mileage driven. For the purposes of this section the true mileage driven is that driven by the car as registered by the odometer within the manufacturer's designed tolerance.

NEW SECTION. Sec. 6. There is added to chapter 46.37 RCW a new section to read as follows:

Where the seller is a motor vehicle dealer regularly engaged in the sale of new motor vehicles at retail and where an accommodation transfer as defined in this section is made, the seller may disconnect the odometer on such motor vehicle for the duration of such transfer. For purposes of this section an accommodation transfer shall mean a sale by one motor vehicle dealer to another dealer for resale by the latter dealer and where: (1) the sale is made as an accommodation to the latter dealer to enable him to fill a bona fide existing order of a customer or is made within fourteen days to reimburse in kind a previous accommodation sale by the latter dealer to the former dealer; (2) the amount paid by the latter dealer does not exceed the amount paid by the former dealer to his vendor in the acquisition of the motor vehicle; (3) the total distance which the motor vehicle is driven pursuant to the transfer does not exceed five hundred miles; and (4) the motor vehicle transferred has never previously been owned by, rented to or leased to any person other than the manufacturer of the motor vehicle or a motor vehicle dealer.

The definitions in RCW 46.70.011, as now or hereafter amended, shall apply to this section.

NEW SECTION. Sec. 7. There is added to chapter 46.37 RCW a new section to read as follows:

In any suit brought by the purchaser of a motor vehicle against the seller of such vehicle, the purchaser shall be entitled to recover his court costs and a reasonable attorney's fee fixed by the

court, if: (1) the suit or claim is based substantially upon the purchaser's allegation that the odometer on such vehicle has been tampered with contrary to sections 2 and 3 of this 1969 amendatory act; and (2) it is found in such suit that the seller of such vehicle or any of his employees or agents knew or had reason to know that the odometer on such vehicle had been so tampered with and failed to disclose such knowledge to the purchaser prior to the time of sale.

Passed the House February 25, 1969

Passed the Senate March 11, 1969

Approved by the Governor March 25, 1969

Filed in office of Secretary of State March 25, 1969

CHAPTER 113  
[Substitute House Bill No. 96]  
HORTICULTURAL PEST  
AND DISEASE BOARD

AN ACT Relating to horticulture; and adding a new chapter to Title  
15 RCW.

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

NEW SECTION. Section 1. The purpose of this act is to enable counties to more effectively control and prevent the spread of horticultural pests and diseases.

NEW SECTION. Sec. 2. Either upon receiving a petition filed by twenty-five landowners within the county or on its own motion, the board of county commissioners in order to achieve the purposes of this act may, following a hearing, create a horticultural pest and disease board.

NEW SECTION. Sec. 3. Each horticultural pest and disease board shall be comprised of five voting members, four of whom shall be appointed by the board of county commissioners and one of whom shall be the inspector at large for the horticultural district in which the county is located. In addition, the chief county extension agent, or a county extension agent appointed by the chief agent, shall be a nonvoting member of the board.

Of the four members appointed by the board of county commissioners, one of such members shall have at least a practical knowledge of horticultural pests and diseases, and the other members shall