

vided by RCW 29.36.030 for the voting of absentee ballots.

The secretary of state shall determine the size of envelopes, dimensions of ballots and voting instructions, and may revise the wording of forms and affidavits whenever in his judgment such changes shall best serve the voting procedure for new residents.

Sec. 8. The secretary of state as chief election officer may make such rules and regulations as will facilitate the operation, accomplishment and purpose of sections 1 through 7 of this act. Rules and regulations.

Sec. 9. Sections 1 through 7 of this act shall constitute a new chapter and be added to chapter 9, Laws of 1965 and Title 29 RCW. New chapter.

Sec. 10. There is hereby appropriated out of the general fund for the biennium ending June 30, 1969, the sum of twelve thousand five hundred dollars, or so much thereof as may be necessary, to the secretary of state for the purpose of carrying out the provisions of sections 1 through 7 of this act. Appropriation.

Passed the House March 14, 1967.

Passed the Senate April 15, 1967.

Approved by the Governor April 24, 1967.

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## CHAPTER 74.

[Engrossed Senate Bill No. 280.]

### MOTOR VEHICLE DEALERS AND SALESMEN.

AN ACT relating to the sale of motor vehicles; licensing dealers and salesmen; defining terms; establishing fees; defining and prescribing certain unfair acts and practices and prescribing civil remedies and penalties therefor; amending section 46.70.060, chapter 12, Laws of 1961 as amended by section 77, chapter [32], Laws of 1967 (S.B. 36) and RCW 46.70.060; amending section 46.70.070, chapter 12, Laws of 1961 as amended by section 1, chapter 239, Laws of 1961

and RCW 46.70.070; repealing section 46.70.010, chapter 12, Laws of 1961 as amended by section 1, chapter 68, Laws of 1965 and RCW 46.70.010; repealing section 46.70.020, chapter 12, Laws of 1961 as last amended by section 76, chapter [32], Laws of 1967 (S.B. 36) and RCW 46.70.020; repealing section 46.70.030, chapter 12, Laws of 1961 and RCW 46.70.030; repealing section 46.70.040, chapter 12, Laws of 1961 as amended by section 3, chapter 68, Laws of 1965 and RCW 46.70.040; repealing section 46.70.050, chapter 12, Laws of 1961 and RCW 46.70.050; repealing section 46.70.080, chapter 12, Laws of 1961 and RCW 46.70.080; repealing section 46.70.100, chapter 12, Laws of 1961 as amended by section 4, chapter 68, Laws of 1965 and RCW 46.70.100; repealing section 46.70.110, chapter 12, Laws of 1961 as last amended by section 78, chapter [32], Laws of 1967 (S.B. 36) and RCW 46.70.110; adding new sections to chapter 12, Laws of 1961 and 46.70 RCW and declaring an effective date; and amending chapter RCW 19.86, chapter 216, Laws of 1961.

*Be it enacted by the Legislature of the State of Washington:*

New section.

Section 1. There is added to chapter 12, Laws of 1961 and to chapter 46.70 RCW a new section to read as follows:

Motor vehicle dealers and salesmen—  
Purpose.

The legislature finds and declares that the distribution and sale of motor 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 exercise of its police power, it is necessary to regulate motor vehicle manufacturers, distributors or wholesalers and factory or distributor representatives, and to regulate and license dealers, and salesmen of motor vehicles doing business in Washington, in order to prevent frauds, impositions and other abuses upon its citizens and to protect and preserve the investments and properties of the citizens of this state.

New section.

Sec. 2. There is added to chapter 12, Laws of 1961 and to chapter 46.70 RCW a new section to read as follows:

All provisions of this amendatory act shall be liberally construed to the end that deceptive practices or commission of fraud or misrepresentation in the sale, barter, or disposition of motor 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 motor vehicles in this state and reliable persons may be encouraged to engage in the business of selling, bartering and otherwise dealing in motor vehicles in this state: *Provided*, That this act shall not apply to printers, publishers, or broadcasters who in good faith print, publish or broadcast material without knowledge of its deceptive character.

Liberal  
construction.

Sec. 3. There is added to chapter 12, Laws of 1961 and to chapter 46.70 RCW a new section to read as follows:

New section.

As used in this act:

(1) "Motor vehicle" means any motor driven vehicle required to be registered and titled under Title 46, Motor Vehicles.

Definitions.

(2) "Motor vehicle dealer" means any person, firm, association, corporation or trust, not excluded by subsection (a) of this section, engaged in the business of buying, selling, exchanging, offering, auctioning, soliciting, or advertising the sale of new, or used motor vehicles, trailers or motorcycles.

(a) The term "motor vehicle dealer" does not include:

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

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

(iii) Employees of motor vehicle dealers when engaged in the specific performance of their duties as such employees; or

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(iv) Any person engaged in an isolated sale of a motor vehicle in which he is the registered and/or legal owner thereof.

(v) Any person, firm, association, corporation or trust, engaged in selling equipment other than motor vehicles, used for agricultural or industrial purposes.

(3) "Motor vehicle salesman" means any person who for any form of compensation sells, auctions, or offers to sell motor vehicles, trailers or motorcycles on behalf of a motor vehicle dealer.

(4) The term "Department" means the department of motor vehicles which shall administer and enforce the provisions of this act.

(5) "Director" means the director of the department of motor vehicles.

(6) "Manufacturer" means any person, firm, association, corporation or trust, resident or non-resident, who manufactures or assembles new and unused motor vehicles.

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

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

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

(10) "Established place of business" means a permanent enclosed building or structure, either owned in fee or leased, actually occupied and easily accessible to the public, located and constructed in conformity with applicable zoning laws, at which a permanent business of bartering, trading and selling of vehicles will be carried on as such, wherein the public may contact the owner or operator at all reasonable times and at which place of business shall be kept and maintained the books, records and files necessary to conduct the business at such place. The established place of business shall display a permanent sign thereon with letters clearly visible to the major avenue of traffic.

Sec. 4. There is added to chapter 12, Laws of 1961 and to chapter 46.70 RCW a new section to read as follows:

New section.

It shall be unlawful for any motor vehicle dealer or motor vehicle salesman to engage in this business as such, act as such, serve in the capacity of such, or advertise himself, itself, or themselves as such, in this state, without first obtaining and holding a current license as provided in this amendatory act: *Provided*, That a motor vehicle dealer shall not be required to have a motor vehicle salesman's license.

Licenses required for dealers and salesmen.

Sec. 5. There is added to chapter 12, Laws of 1961 and to chapter 46.70 RCW a new section to read as follows:

New section.

A motor vehicle dealer or salesman may apply for a license by filing with the director an application in such form as the director may prescribe and

Application for license—Form—Fee.

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upon payment of the necessary fee as herein set forth.

New section.

Sec. 6. There is added to chapter 12, Laws of 1961 and to chapter 46.70 RCW a new section to read as follows:

Application—  
Contents.

(1) Every application shall contain the following information to the extent the same is applicable to the applicant:

- (a) The applicant's honesty and reputation;
- (b) The applicant's form and place of organization;
- (c) The qualification and business history of the applicant, and in the case of a motor vehicle dealer, any partner, officer or director;
- (d) Whether the applicant has been found guilty of any felony within the past five years involving moral turpitude, or for any misdemeanor concerning fraud or conversion, or suffering any judgment in any civil action involving fraud, misrepresentation or conversion and in the case of a corporation or partnership, all directors, officers or partners;
- (e) The applicant's financial condition or history including 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;
- (f) Any other information the director may require.

(2) If the applicant is a motor vehicle dealer, then information as to the type of business he will be engaged in, including:

- (a) Name or names of new cars the motor vehicle dealer wishes to sell;
- (b) The names and addresses of each manufacturer or distributor from whom the applicant has received a franchise;

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

(d) A statement by the chief of police or his deputy that the applicant has "an established place of business" as defined by this amendatory act if the location is in a city over five thousand in population; otherwise, by a member of the Washington state patrol.

(3) If the application is for a salesman's license, a certification by the motor vehicle dealer for whom he is going to work that he has examined the background of the applicant and to the best of his knowledge is of good moral character.

Sec. 7. There is added to chapter 12, Laws of 1961 and to chapter 46.70 RCW a new section to read as follows: New section

After the application has been filed and the fee paid, the director shall, if no denial order is in effect and no proceeding is pending under sections 16 or 17 of this amendatory act, issue the appropriate license. Issuance of license.

Sec. 8. There is added to chapter 12, Laws of 1961 and to chapter 46.70 RCW a new section to read as follows: New section.

The license issued to each motor vehicle dealer shall specify the location of the dealership, place of business or office of the agency. In case such location is changed the department shall be notified within ten days. Any change to another county shall require a new license. Location—Multiple location—Continuation.

A motor vehicle dealer maintaining one or more places of business shall be required to obtain and hold a current license for each place of business, including a branch or subagency: *Provided, however,* That only one license shall be required for all places of business doing business under the same name within a single county.

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salesmen.

A motor vehicle dealer's license shall upon the death, or incapacity of an individual motor 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 said death or incapacity.

New section.

Sec. 9. There is added to chapter 12, Laws of 1961 and to chapter 46.70 RCW a new section to read as follows:

Salesmen's  
license—  
Posting—Upon  
termination.

The license issued to the motor vehicle salesman shall be sent to the salesman by the department and shall be posted in a conspicuous place on the premises of the dealer by whom the salesman is employed during the period of the salesman's employment.

When a salesman begins or terminates a connection with a motor vehicle dealer, the salesman and dealer shall promptly notify the director, in writing, in the form prescribed by the director. In addition to other information required by the director, the motor vehicle dealer with whom the salesman is beginning a connection shall certify that he has examined the background of the salesman and, to the best of his knowledge, the salesman is of good moral character.

New section.

Sec. 10. There is added to chapter 12, Laws of 1961 and to chapter 46.70 RCW a new section to read as follows:

Expiration—  
Renewal.

Registration of a motor vehicle dealer or motor vehicle salesman shall be effective until June 30 and may be renewed by filing with the director prior to the expiration thereof an application containing such information as the director may require to indicate any material change in the information contained in the original application.



Sec. 11. There is added to chapter 12, Laws of 1961 and to chapter 46.70 RCW a new section to read as follows:

New section.

The director may by order deny, suspend or revoke the license of any motor vehicle dealer or salesman if he finds that the order is in the public interest and that the applicant, or licensee, or in the case of a motor vehicle dealer, any partner, officer or director or majority stockholder:

Motor vehicle dealers and salesmen—Denial, suspension or revocation of licenses—Grounds.

(1) Was previously the holder of a license issued under this amendatory act, 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;

(2) Has been found guilty of any felony within the past five years involving moral turpitude, or for any misdemeanor concerning fraud or conversion, or suffering any judgment in any civil action involving fraud, misrepresentation or conversion;

(3) Has made a false statement of a material fact in his application or in any data attached thereto;

(4) Has failed to comply with the applicable provisions of 46.12 RCW any rule or regulation or order issued under this amendatory act;

(5) 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 motor vehicle;

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

(7) Has purchased, sold, or disposed of a motor vehicle which such applicant or licensee knows or has reason to know has been stolen or appropriated without the consent of the owner;

(8) Has wilfully failed to deliver to a purchaser a certificate of ownership to a motor vehicle which the applicant or licensee has sold;

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licenses—  
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(9) Has suffered or permitted the cancellation of a fidelity bond or the exhaustion of the penalty thereof;

(10) Has failed to comply with the provisions of this amendatory act including notices, or reports of transfers of vehicles, or the maintenance of records, or has caused or suffered or is permitting the unlawful use of the dealer license certificate or dealer license plates;

(11) Has committed any act in violation of section 16 of this act;

(12) Is a motor vehicle dealer who:

(a) Does not have an established place of business as defined in this chapter;

(b) Employs an unlicensed salesman;

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

(d) Knowingly employs a salesman whose license has been denied, or revoked within the last year, or is currently suspended;

(13) Is an applicant for a salesman's license who was previously the holder of, or was a partner in a partnership, or was an officer, director, or stockholder involved in management of a corporation which was the holder, of a license which was revoked for cause and never reissued or was suspended and the terms of the suspension have not been terminated;

(14) Is insolvent, either in the sense that his liabilities exceed his assets, or in the sense that he cannot meet his obligations as they may mature.

New section.

Sec. 12. There is added to chapter 12, Laws of 1961 and to chapter 46.70 RCW a new section to read as follows:

Upon the entry of the order under section 11 of this amendatory act the director shall promptly not-

ify the applicant or licensee, as well as the employer or prospective employer if the applicant or licensee is a salesman, 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 34.04 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 section 11 denying or revoking a license without appropriate prior notice to the applicant or licensee (as well as the employer or prospective employer if the applicant or licensee is a salesman), opportunity for hearing, and written findings of fact and conclusions of law.

Notice—  
Hearing—  
Procedure.

Sec. 13. There is added to chapter 12, Laws of 1961 and to chapter 46.70 RCW a new section to read as follows:

New section.

(1) For motor vehicle dealers, the fee as provided in RCW 46.70.060;

Fees—Disposition.

(2) For dealers plates, three dollars per set for each additional set over one;

(3) For location change by a motor vehicle dealer within the same county, five dollars. A change to another county shall require a new license;

(4) For each motor vehicle salesman, ten dollars per year and ten dollars for each year for renewal thereof;

(5) For transfer of a motor vehicle salesman from one motor vehicle dealer to another motor vehicle dealer, transfer fee of five dollars.

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licensing.

(6) All fees collected under this amendatory act shall be turned into the state treasury and credited to the motor vehicle fund.

New section.

Sec. 14. There is added to chapter 12, Laws of 1961 and to chapter 46.70 RCW a new section to read as follows:

Application—  
Retention by  
department—  
Confidential-  
ity.

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.

New section.

Sec. 15. There is added to chapter 12, Laws of 1961 and to chapter 46.70 RCW a new section to read as follows:

Investigations  
or proceedings  
—Powers of  
director—  
Penalty.

For the purpose of any investigation or proceeding under this amendatory act, 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.

(2) No person is excused from attending and testifying or from producing any document or record before the director, or in obedience of the subpoena of the director or any officer designated by him, or in any proceeding instituted by the director, on the ground that the testimony or evidence (documentary or otherwise) required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after claiming his privilege against self-incrimination, to testify or produce evidence (documentary or otherwise), except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

Sec. 16. There is added to chapter 12, Laws of 1961 and to chapter 46.70 RCW a new section to read as follows: New section.

Each of the following acts or practices is hereby declared unlawful: Motor vehicle dealers and salesmen—Unlawful acts and practices.

(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 than 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;

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and practices.

(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) 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;

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(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) 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 act, 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.

Sec. 17. There is added to chapter 12, Laws of 1961 and to chapter 46.70 RCW a new section to read as follows:

The director shall revoke or refuse to issue a motor vehicle dealer's license for a franchise replacing a cancelled or terminated franchise if a civil action pursuant to section 21 is pending and was filed within 60 days following the written notification of the cancellation or nonrenewal of an existing franchise and a certified copy of said complaint alleging the date of said notification is filed with the department within said 60 days by the complaining motor vehicle dealer. The court may, however, in order to maintain adequate and competitive service in the area or upon a showing of good cause by the manufacturer, distributor, or factory branch order the director to issue said motor vehicle dealer's license if the dealer complies with other sections of chapter 46.70 RCW.

New section.

Civil action  
pending—  
Effect—Court  
order.

New section.

Sec. 18. There is added to chapter 12, Laws of 1961 and to chapter 46.70 RCW a new section to read as follows:

Motor vehicle dealers and salesmen—Unlawful acts.

Upon the filing of a complaint pursuant to section 21 by a complaining motor vehicle dealer within 60 days following the written notification of the cancellation or nonrenewal of the existing franchise, any cancelled or nonrenewed franchise of said complaining dealer shall stay in full force and effect until the complaint has been expeditiously disposed of, unless the court, pursuant to section 17 of this amendatory act, has ordered the director to issue a motor vehicle dealer's license to a new franchisee.

Filing complaint—Effect.

If a new franchise is given by a manufacturer, distributor or factory branch for the sale of the same make of motor vehicle in the same area of responsibility in that covered in said cancelled or terminated franchise, such act shall be prima facie evidence that the new franchise replaced the canceled or terminated franchise.

New section.

Sec. 19. There is added to chapter 12, Laws of 1961 and to chapter 46.70 RCW a new section to read as follows:

Duties of attorney general and prosecuting attorney to enforce—Limitation of civil actions.

The director may refer such evidence as may be available concerning violations of this amendatory act 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 amendatory act 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 sub-

ject to this amendatory act: *Provided further*, That any action to enforce a claim for civil damages under chapter 19.86 RCW shall be forever barred unless commenced within 6 years after the cause of action accrues.

Sec. 20. There is added to chapter 12, Laws of 1961 and to chapter 46.70 RCW a new section to read as follows: New section.

In the enforcement of this amendatory act, the attorney general and/or any said prosecuting attorney may accept an assurance of compliance with the provisions of this amendatory act 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. Assurance of compliance—  
Effect.

Sec. 21. There is added to chapter 12, Laws of 1961 and to chapter 46.70 RCW a new section to read as follows: New section.

Any person who is injured in his business or property by a violation of this amendatory act, or any person so injured because he refuses to accede to a proposal for an arrangement which, if consummated, would be in violation of this amendatory act, 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. Civil actions—  
Claims under  
Federal act—  
Election of  
remedies—  
Time limita-  
tion.

Any person recovering judgment or whose claim has been dismissed with prejudice against a manufacturer, distributor or factory representative or branch pursuant to sections 16 (5) (b) and 21 of this amendatory act shall, upon full payment of said judgment, or upon the dismissal of such claim, execute a waiver in favor of the judgment debtor or defendant of any claim arising prior to the date of

Regulation of motor vehicle dealers and salesmen.

said judgment or dismissal under the Federal Automobile Dealer Franchise Act, 15 United States Code Sections 1221-1225. Any person having recovered full payment for any judgment or whose claim has been dismissed with prejudice under said Federal Automobile Dealer Franchise Act shall have no cause of action under this section for alleged violation of Section 16 (5) (b) of this amendatory act, with respect to matters arising prior to the date of said judgment.

A civil action brought in the superior court pursuant to the provisions of section 21 of this amendatory act must be filed no later than one year following the alleged violation of this amendatory act.

New section.

Sec. 22. There is added to chapter 12, Laws of 1961 and to chapter 46.70 RCW a new section to read as follows:

Penalties—Jurisdiction.

Any person who violates the terms of any court order, or temporary or permanent injunction issued pursuant to this amendatory act, 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 section 21 of this amendatory act has secured the injunction violated, may petition for the recovery of civil penalties.

New section.

Sec. 23. There is added to chapter 12, Laws of 1961 and to chapter 46.70 RCW a new section to read as follows:

Service of process outside of state.

Personal service of any process in an action under this amendatory act may be made upon any person outside the state if such person has engaged in conduct in violation of this amendatory act which has had the impact in this state which this amenda-

tory act 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.

Sec. 24. There is added to chapter 12, Laws of 1961 and to chapter 46.70 RCW a new section to read as follows: New section.

The provisions of this amendatory act shall be applicable to all franchises and contracts existing between motor vehicle dealers and manufacturers or factory branches and to all future franchises and contracts. Application of act.

Sec. 25. There is added to chapter 12, Laws of 1961 and to chapter 46.70 RCW a new section to read as follows: New section.

The provisions of this amendatory act shall be cumulative to existing laws: *Provided*, That the violation of section 16 of this amendatory act shall be construed as exclusively civil and not penal in nature. Provisions cumulative—  
Violations—  
Effect.

Sec. 26. Section 46.70.060, chapter 12, Laws of 1961 as amended by section 77, chapter [32], Laws of 1967 (S.B. 36) and RCW 46.70.060 are each amended to read as follows: RCW 46.70.060 amended.

The fee for original dealer license for each calendar year or fraction thereof shall be as follows: Motor vehicle dealers, fifty dollars; which shall include one set of dealer license plates, and which may be renewed annually for a fee of twenty dollars. Additional sets of the dealer license plates, bearing the same license number, may be obtained for three dollars per set. If any dealer shall fail or neglect to apply for such renewal prior to August 1st in each year, his license shall be declared canceled by the director, in which case the dealer will be required to apply for an original license and pay the fee required for such original license. The fees Dealer's license fee—  
Dealer's plates.

Regulation of motor vehicle dealers and salesmen.

prescribed herein shall be in addition to any excise taxes imposed by chapter 82.44.

**Note: See also section 77, chapter 32, Laws of 1967.**

RCW 46.70.070 amended.

Sec. 27. Section 46.70.070, chapter 12, Laws of 1961 as amended by section 1, chapter 239, Laws of 1961 and RCW 46.70.070 are each amended to read as follows:

Bond required —Actions —Revocation of licenses.

Before issuing a dealer license, the director shall require the applicant to file with said director a surety bond in the amount of ten thousand dollars for a motor vehicle dealer 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 who shall have suffered any loss or damage by reason of breach of warranty or by 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. Successive recoveries against said bond shall be permitted by 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 director shall revoke the license of the dealer.

New section.

Sec. 28. There is added to chapter 12, Laws of 1961 and to chapter 46.70 RCW a new section to read as follows:

Severability.

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.

Sec. 29. There is added to chapter 12, Laws of 1961 and to chapter 46.70 RCW a new section to read as follows: New section.

All persons doing business within this state as a motor vehicle salesman as defined in this amendatory act who may be required by this amendatory act to be licensed by the department shall comply with the provisions hereof no later than September 30, 1967. Effective dates for compliance.

All motor vehicle dealers now licensed by the state shall renew their licenses on or before February 1, 1968, for a period expiring June 30th and thereafter licenses shall expire June 30th of each year: *Provided*, That those who renew for the six months period from January 1, 1968, to June 30, 1968, shall only pay one-half the regular renewal fee.

All persons doing business within this state not previously licensed as a dealer but who may be required to license as a "motor vehicle dealer" as defined in this amendatory act shall comply with the provisions hereof no later than September 30, 1967.

Sec. 30. Section 46.70.010, chapter 12, Laws of 1961 as amended by section 1, chapter 68, Laws of 1965 and RCW 46.70.010; section 46.70.020, chapter 12, Laws of 1961 as last amended by section 76, chapter [32], Laws of 1967 (S.B. 36) and RCW 46.70.020; section 46.70.030, chapter 12, Laws of 1961 and RCW 46.70.030; section 46.70.040, chapter 12, Laws of 1961 as amended by section 3, chapter 68, Laws of 1965 and RCW 46.70.040; section 46.70.050, chapter 12, Laws of 1961 and RCW 46.70.050; section 46.70.080, chapter 12, Laws of 1961 and RCW 46.70.080; section 46.70.100, chapter 12, Laws of 1961 as amended by section 4, chapter 68, Laws of 1965 and RCW 46.70.100; section 46.70.110, chapter 12, Laws of 1961 as last amended by section 78, chapter Repeal.

[32], Laws of 1967 (S.B. 36) and RCW 46.70.110 are each repealed.

**Note:** See also sections 76 and 78, chapter 32, Laws of 1967.

Emergency.  
Effective  
dates.

Sec. 31. 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 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.

Passed the Senate March 29, 1967.

Passed the House April 12, 1967.

Approved by the Governor April 22, 1967, with the exception of a certain item in Section 15 which was vetoed.

**NOTE:** Governor's explanation of partial veto is as follows:

"This bill makes significant changes in the law relating to licensing of motor vehicle dealers, provides for the licensing of salesmen of motor vehicles, and declares certain practices to be unlawful.

"The Director of Motor Vehicles is charged with the enforcement of the act, and is given the power to deny, suspend or revoke a salesman's or dealer's license. The bill grants to the director the power to conduct investigations, hold hearings, and issue subpoenas to compel attendance of witnesses.

"The grant of subpoena power is not uncommon in statutes regulating business and professions, and is desirable in this bill in order to permit the director to investigate unfair practices in sales of motor vehicles.

"However, subsection (2) of Section 15 of the bill contains provisions which are not normally found in statutes regulating and licensing business and professions. It provides that a witness compelled to testify or produce documents at any proceeding instituted by the director may not refuse to testify on the ground that his testimony or other evidence might tend to incriminate him. However, if the witness claims his constitutional privilege against self-incrimination, he may not be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he is compelled to testify or produce evidence during the course of the proceeding.

"In this type of proceeding, I object to denying a witness his constitutional privilege against self-incrimination. I am convinced that the Director of Motor Vehicles will be able to obtain sufficient information to determine whether to grant, deny or revoke the license of a motor vehicle dealer or salesman without requiring a witness to incriminate himself. Moreover, I feel that the director of a state agency, which is not charged with the responsibility of conducting criminal prosecutions, normally, should not have the power to grant immunity from prosecution for a crime. This could be the result of the director's action in compelling testimony under this subsection.

"For the foregoing reasons, I have vetoed Subsection (2) of Section 15. The remainder of Senate Bill No. 280 is approved."

**DANIEL J. EVANS,**  
Governor.