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My Testimony HB 572

I have been a vehicle dealer for 18 years in Kailua-Kona, Hawaii. I have a total of 8 full time employees. We run our business by the book both regulation wise as well as adhering to strict HR standards as prescribed by both state and federal law. We even have to warranty some vehicles we sell ourselves with our money (Hawaii is one of a few states requiring this)

As vehicle dealers, we are under the microscope both from various federal agencies and state as well. Our methods are and have to be well documented at any moment we could and have been contacted or visited by The Federal Trade Commission and The Hawaii DCCA RICO division our a myriad of other agencies to be audited, cited and heavily fined for possible violations. Fortunately, because our dealership strives to be in compliance, we are able to continue in business without interruption. Continuous education to ever changing playing field is key to staying abreast to the regulations.

Conscientious law abiding dealers realize these regulations are in place to protect consumers from would be, unscrupulous dealers and the regulation do just that.

There is a large group of "vehicle sellers" that greatly outnumber the legitimate licensed dealers.

These illegal "sellers" are of two distinct types:

Illegal dealers

and

curbstoners

Curbstoners are persons or groups of persons that obtain vehicles through newspapers, Craigslist or other car media sources; or purchase what they believe to be sellable compromised, broken or damaged vehicles dealers, "wholesalers", or auctions. They do as little as possible to repair and some make them cosmetically beautiful. They are then placed on Craigslist, the paper or on the side of the road for sale with a phone number on them. A prospective buyer calls the curbstoner for an appointment, usually at a shopping center, zoo or other public area. The curbstoner makes "the deal" (a lot like a drug deal would go down) instructs the buyer to get cash, usually they will go to the bank together. The title is given to the new owner (usually still in the name of the previous owner for the curbstoner to avoid ever having their name on the transaction) The owner pays the curbstoner they then part company and the seller (curbstoner) is gone (often for good) If any problems develop, the new owner often can't reach the seller as he was often just using a throw away phone and number. They may have even bought a salvage vehicle and not been aware or it could be a person going through a divorce brought his or her's vehicle to the curbstoner. It is sold for one of the spouses without the other one knowing. (one person signs both signatures) or the curbstoner signs both! The buyer would end up losing the car and his money.

In all events the curbstoner is usually letting the prospective buyer test drive the vehicle uninsured without the buyer knowing it.

The profit is usually very high \$1,000-5000 per vehicle, no state or federal income taxes, no GET, no overhead, no insurance and especially *no warranty!*

Illegal Dealers: Are much like all of the above except; these fraudulent people obtained a dealer's license under false pretense by faking a location with a phony lease that they typed up and signed themselves, getting a small bond from a bail bondsman. Presto, they're a dealer! No one ever checks to make sure that their location is real and complies with the law. The DCCA used to check but abandoned that practice years ago.

Illegal dealers can get their cars in the same places as curbstoners, however they also have a much better source available: Repossessed vehicles for sale to dealers only at dealer only attended auctions! Most states require dealers to have a special insurance policy that covers all of their vehicles, however Hawaii does not and that is a real problem.

These dealers purchase their vehicles from an auction and just drive them away, no insurance and no one watching

No one goes after either groups of these sellers because they are very hard to detect. One comment I heard a DCCA employee make was "who are they hurting?"

They are hurting me and they might hurt you.

This bill, although not perfect, would go far to help one of Hawaii's consumers and would help legitimize and protect one of Hawaii's largest industries.

TESTIMONY ON HB572

LATE

My name is John P. Gillmor. I speak as a private citizen.

HB572 deals with the problem of "Joe". Joe holds a used motor vehicle dealer's license under chapter 437 from the state of Hawaii, but he really does not act like a licensed dealer (more about that later). What does Joe do? Most of the time Joe sits at the beach with his cell phone nearby (sometimes he sits at home or his favorite watering hole). Joe owns 7 or 8 motor vehicles at any one time. He purchased those vehicles at the wholesale auto auction open only to licensed dealers. Those vehicles are sitting (unmarked) on public streets until Joe receives a call on his cell phone from someone who has seen the "for sale by owner" advertisement on craigslist. Even though the vehicle was purchased 10 days ago at the auto auction Joe says that it was owned by a member of his family. "Meet me at the parking lot of the "Big Box" store and I will show you the vehicle". If a sale is consummated, the buyer will register the vehicle at the DMV. If there are any problems, all the buyer would have is a cell phone number to seek redress.

Meanwhile, Joe, having told one lie about the vehicle being a family car, tells another to the Hawaii Department of Taxation. Even though Joe is selling 50 vehicles a year (gross sales between \$400,000 and \$500,000) he is not paying HGET taxes on the gross or income taxes on the estimated \$60,000 to \$75,000 net income. On top of that, Joe is able to undersell the licensed dealers who sell off legally required sales lots by 15% or so. Did I mention that Joe, in addition to not paying taxes or rent, also does not insure his revolving inventory?

Motor vehicle dealers who follow the law under chapter 437. are unhappy that Joe and others like him, are allowed to flourish and proliferate under the current regime. But Joe holds a valid motor vehicle dealer's license. Joe was able to exploit an gaping hole in the regulatory system. Fifteen years ago, the Motor Vehicle Industry Licensing Board used to administer the license application and biannual license renewal process by actually going out and conducting a site inspection of the premises to be licensed --commercially zoned, with an office structure and sanitation facilities and enough space to display three motor vehicles. Since that time there have been no inspections by the Board. The result has been that a number of licenses have been issued on the basis of fictitious premises.

The site inspection provision of the bill is aimed at stopping Joe's illegal practice and insuring that a buyer will have a specific site to visit in the event of a defect or warranty claim. The insurance provisions are aimed at dealers who have a fleet of vehicles but do not insure. There are other provisions in the bill regarding bonding which deal with more technical issues