



DAVID STEFFEN

STATE REPRESENTATIVE • 4TH ASSEMBLY DISTRICT

March 26, 2019

Testimony to the Assembly Committee on Transportation on Assembly Bill 3

Chairman Kulp and Committee Members,

Thank you for the opportunity to testify in favor of Assembly Bill 3 relating to the denial, suspension, and revocation of certain licenses related to motor vehicle dealers.

This legislation arises from complaints from residents in Northeast Wisconsin who were defrauded by a car dealership in Kaukauna, Wisconsin. From 2014 to 2016 dozens of vehicles on consignment were sold despite the original vehicle owner not being notified or receiving compensation. These residents filed complaints with the Department of Transportation, however the process of license revocation was a lengthy and tedious process and failed to protect Wisconsinites in these consignment sales.

This is common-sense legislation that reforms and simplifies our dealer license revocation system in order to better protect our constituents. I encourage you to join me in supporting this legislation.

Thank you,

David Steffen
State Representative
4th Assembly District

Testimony on 2019 Assembly Bill 3

Senator Robert Cowles

March 26, 2019

Assembly Committee on Transportation

Thank you Chairman Kulp and Members of the Committee for allowing me to speak on 2019 Assembly Bill 3. This bill will provide the Department of Transportation (DOT) the authority to deny, suspend, and revoke certain licenses related to motor vehicle dealers in certain circumstances.

From 2014 to 2016, dozens of vehicles on consignment at the Kaukauna car dealership Standard Pre-Owned were sold despite the original vehicle owner not being notified or receiving compensation. While complaints flooded into DOT, more Northeast Wisconsin residents found themselves defrauded by Standard Pre-Owned as the lengthy and tedious process of license revocation failed to protect Wisconsinites in these consignment sales. These events lead my office, the offices of my co-authors, impacted constituents, DOT, and the Wisconsin Automobile and Truck Dealers Association to enter into a broader discussion over the course of several months on how we can prevent situations like this from happening again. The consensus results of these meetings created 2017 Senate Bill 705, now reintroduced as 2019 Assembly Bill 3.

This bill establishes a process for DOT to perform an initial determination for a license denial, suspension or revocation. This is the same process used by the Department of Safety and Professional Services, but is more limited in scope. Under this bill, the Department's license determination authority allows them to immediately suspend or revoke a license if they find one of the following:

1. The licensee violated their consignment sales license;
2. The licensee is selling a motor vehicle without a dealer's license, or;
3. There is intentionally fraudulent conduct related to the certificate of a title, mileage disclosure, or the use of personal identifying information.

If a licensee has had their license suspended or revoked, this bill sets forth a timeline for an appeal before the Department. If the licensee disagrees with the DOT's determination, they may enter into an appeal's process before the Division of Hearings and Appeals.

By simplifying the process of denial, suspension and revocation of these licenses, we provide DOT the ability to better protect Wisconsinites. While these changes may not have prevented the situation at Standard Pre-Owned, the DOT agrees that these changes would have prevented more vehicle owners from being defrauded during the license revocation process. Consumers should expect honesty during automotive sales, which is why the DOT must have the ability to protect consumers from fraudulent automotive transactions. I am also submitting testimony today from my constituent, Trevor Bosar, who is unable to attending today's hearing, but has been instrumental in the creation of AB 3.



Wisconsin Department of Transportation
Office of the Secretary
4822 Madison Yards Way, S903
Madison, WI 53705

Governor Tony Evers
Secretary Craig Thompson
wisconsin.gov
Telephone: (608) 266-1114
FAX: (608) 266-9912
Email: sec.exec@dot.wi.gov

Testimony of Wisconsin Department of Transportation
Assistant Deputy Secretary Joel Nilsestuen on Assembly Bill 3
Assembly Committee on Transportation
March 26, 2019

Thank you, Chairman Kulp, and committee members for the opportunity to speak for information on Assembly Bill 3.

The authors of Assembly Bill 3 contacted the Wisconsin Department of Transportation in 2017 to discuss how to prevent another "Standard-Pre-Owned Auto" situation. We want to thank the authors for working with the Department to put together legislation that will give the Division of Motor Vehicles the necessary tools to enhance consumer safety.

Under Assembly Bill 3, DOT becomes responsible for the initial determination on license denials, suspensions and revocations. The licensee may appeal DOT's determination to the Division of Hearings and Appeals (DHA) within 30 days. DHA would then have 30 days from receipt of the appeal to both hold a hearing and issue a decision. Under current law, there are often delays and no strictly prescribed timelines, which these bills provide.

Assembly Bill 3 allows, in certain cases, for a suspension or revocation of a license to take effect immediately. Specifically, a license suspension or revocation will take effect immediately if DOT determines that immediate suspension or revocation is appropriate and alleges any of the following:

1. A license violation in the course of a consignment sale;

This directly addresses the Standard Pre-Owned situation. Laws were already in place to prevent these things from happening, however the process was cumbersome and led to further loss to consumers. With this provision, we believe the department would have greatly reduced the number of harmed consumers, and in the future can prevent this situation from happening again.

2. A sale of a motor vehicle without a dealer license [which includes wholesale licenses and auction buyer licenses when those individuals are using those credentials to conduct unlicensed retail sales];

This provision effectively addresses the most common form of unlicensed dealer sales that occur in Wisconsin today, which frequently result in consumers being harmed.

Today, bad actors get licensed by DMV through fraudulent means and gain access to auctions. They then buy vehicles and immediately put them up for sale on craigslist.

These sales are unregulated and have no protections for the consumer. When DMV discovers this, the department must follow the same cumbersome, lengthy process we do for all revocations/suspensions of dealer licenses, just to remove the ability of these bad actors to access the auction. This provision closes that loophole. These sales are where DMV also commonly sees odometer fraud occurring. Under current law, someone who holds a buyer's license from DMV, that purchases a car, spins the odometer for 150K miles, and then illegally sells that car on craigslist, must have a hearing before we can even remove their access to the auctions.

3. Intentionally fraudulent conduct related to certificates of title, mileage disclosure including odometer fraud, or use of personal identifying information.

The current statutes for license suspension and revocation leave DOT with no effective recourse to address situations where consumers are being harmed, such as with Standard-Pre-Owned Auto. Providing DOT with additional tools to take immediate action when it is in the best interest of the public is consistent with DMV's regulatory authority over private driver training schools and private commercial driver license testers. In addition, it is also consistent with other state agencies such as the Department of Safety and Professional Services. Assembly Bill 3 provides DOT the necessary tools to act immediately when consumer harm is imminent.

Thank you again for the opportunity to testify today. We would be happy to answer any questions you might have.

Senate Bill 3 – Testimony – 2/17/19

My name is Trevor Bosar. I was one of the dozens of victims of consignment fraud that occurred at two licensed used auto dealerships in Northeast Wisconsin that has led to an ongoing federal investigation. I was contacted in late February in 2016 by the dealership in question. At the time, I was trying to sell a vehicle of mine via Autotrader.com, and Standard Pre-owned contacted me, offered to put my vehicle on their lot, and sell it via a consignment agreement. I went forward with this offer. In early May, I noticed that my car was no longer on the lot and when I inquired about this, was told it was in the process of being sold at the Suamico lot. Through-out mid-May, I was inquiring as to what the status was, and my phone calls and emails went unanswered.

On May 19th of 2016, I was made aware that my vehicle had been sold. I was also informed that the dealership was sold and left the business with significant debt, and they didn't have any money to pay me for my car. I filed a police report with the Kaukauna Police Department about this activity later that day. I was then told to contact WisDOT Field Inspector Michael Urban to file a complaint, which I did. In June of 2016, I sent out multiple letters to my representatives, the governor, Department of Transportation, Department of Consumer Protection, and similar agencies in the hopes of getting some answers. In July, I received a personal letter from the former secretary of the Department of Transportation, Mr. Mark Gottlieb. In the letter, he stated "The dealer is required to have the original Title on hand to conduct a sales transaction. Standard Pre-Owned potentially violated the law by both not processing the title, and by not paying off consignors after selling the vehicle".

In August of 2016, I filed a Notice of Claim & Injury with the Attorney General, placing blame at the hands of the Department of Transportation for the loss of my car. DOJ's response was "our investigation reveals no basis to substantiate any liability on the part of any State of Wisconsin employee". Around this time, I also filed other claims, such as a claim against the dealership's surety bond, appealed the title transfer, and filed a claim for damages against the state with the Wisconsin Claims Board.

In the months that followed, I lost the title appeal, on the grounds of that the person who bought my car bought it in "good faith". The surety bond only amounted to a couple hundred dollars, compared to the \$5,200 the car had sold for. And to accept the money, I would have to give up my right to pursue civil action against the owners and investors of the dealerships.

In June of 2017, I put together a report detailing the timeline of the dealership's operation based on previous open records requests and circulated it amongst some representatives in Madison. Shortly after, I was lucky enough to be granted an audience with WisDOT Secretary Ross, with the help of Rep. Steineke, Sen. Cowles, & Sen. Hansen. I was able to voice my concerns about this whole situation. I wanted the government to improve regulation on consignment auto sales, or ban consignment auto sales altogether. This isn't Wisconsin's first incident involving consignment auto sales, such as Capitol Corvette in the mid-90's, and Malec Motors of Cross Plains in 2010.

I pushed for an increase in the dollar amount needed in a surety bond, which is \$50,000, to qualify for a retail dealership license or create a "Dealership Victim's Fund" similar to the State of Illinois's "Dealer Recovery Trust Fund".

I wanted further discussion about the electronic titling process (**Wisconsin's Automated Processing Partnership System - Wis. Stat. § 341.21**) & for DOT to audit more title transactions. Only 1% of the 959,000 title transactions that occurred in 2015 were audited at the price of \$51,000. (*WTAQ - Lawmakers React To Standard Pre-Owned - 9/28/16*)

And finally, to review the Temporary License Plate system (**Wis. Stat. §341.09 - Temporary Operation Permits and Plates**) According to current rules & regulations, there is no record on when temporary plates are used. It is alleged that the dealership would take in cash from a consignment vehicle and give the buyer of the consignment vehicle a temporary plate unreported. When the buyer would go to the DMV to get permanent plates, the DMV would reject the request because the temporary plates weren't recorded by the dealer.

Over \$300,000 in financial losses were claimed amongst 30 dealership complaints and follow-up surety bond claim filings against the dealership. (*Division Hearings & Appeals – In The Matter of Claims Against the Dealer Bond of Bella Investment Group, LLC – 1/30/17 & Division Hearings & Appeals – In The Matter of Claims against the Dealer Bond of Suamico Investment Group, LLC - 8/22/16*)

Since the two dealerships have closed, the Dealer & Agent Section's Field Investigative Unit have completed over 60 complaint investigations in the second half of 2016 alone, including Title infractions. (*WisDOT's Newsletter - "Plain Dealing"- January 2017*)

I previously provided testimony on a similar bill last year titled Senate Bill 705. Even with the support of Democrats & Republicans, members of the Assembly and Senate, members of WisDOT, and no opposition from the Dealer's Association, the bill failed to be voted on.

It is now February of 2019. The federal investigation has been shelved. A majority of civil cases have been halted due to some operators and owners of the dealerships filing for bankruptcy. Previous attempts by the legislature to promote change administratively and increase consumer protection, have failed to gain support, such as the DOT Reform Bill from July (**LRB-3884: DOT Reform Bill – July 14th 2017**) and the proposed legislation regarding surety bonds for consignment motor vehicle dealers from November (**LRB-4032/1**), along with Senate Bill 705 from the previous session.

The proposed legislation of Senate Bill 3 would resolve the issues presented by dealerships that violate auto consignment sales and conduct fraudulent activity, and prevent what happened to me and many other Wisconsinites, from occurring again. I feel a positive change in consumer protection for Wisconsinites can be on the Governor's desk before the end of this session in March.

Thank you for your time.

Trevor Bosar
tbosar@gmail.com