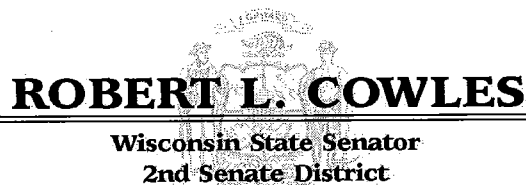


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Testimony on 2017 Senate Bill 705 and Assembly Bill 852

Senator Robert Cowles

January 30, 2018

Senate Committee on Transportation and Veterans Affairs

Assembly Committee on Transportation

Thank you Chairman Petrowski, Chairman Spiros and Members of these Committees for allowing me to speak on Senate Bill 705 and Assembly Bill 852. 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.

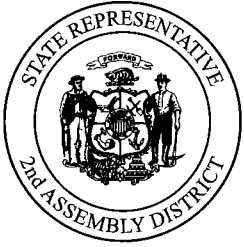
From 2014 to 2016, dozens of vehicles on consignment at the Kaukauna car dealership Standard Pre-Owned were sold despite the original vehicle owner not being notified or receiving compensation. While complaints flooded into DOT, more Northeast Wisconsin residents found themselves defrauded by Standard 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 Senate Bill 705 and Assembly Bill 852.

These bills establish 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.



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TO: Members of the Assembly and Senate Committees on Transportation
FROM: Rep. André Jacque
DATE: January 30, 2018
RE: Assembly Bill 852 and Senate Bill 705

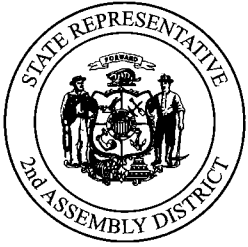
Chairman Spiros, Chairman Petrowski and Members of the Assembly and Senate Committees on Transportation,

Thank you for the opportunity to testify with Sen. Cowles as the authors of this common-sense bipartisan legislation to reform our dealer license revocation system to better protect the public. From 2014 to 2016, dozens of vehicles on consignment at the Standard Pre-Owned car dealership were sold despite the original vehicle owner not being notified or receiving compensation.

Automobile purchases are one of the largest investments our constituents make. 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. Others narrowly avoided sizable catastrophic losses by noticing claims from Standard Pre-Owned's operator didn't add up and reclaimed their vehicles before it was too late. These events lead our offices, impacted constituents, DOT, Legislative Council, and the Wisconsin Automobile and Truck Dealers Association to enter into a broader discussion on how we can prevent situations like this from happening again. The consensus results of these meetings created AB 852/SB 705.

This legislation simplifies the process for WisDOT to deny, suspend or revoke certain licenses issued to motor vehicle manufacturers, importers, distributors and dealers to allow the department to adequately address the most egregious cases of fraud. Under AB 852/SB 705, DOT could perform an initial determination for a license denial, suspension or revocation. This process is reflective of the statutory authority DSPS has in initial determinations.

In the DOT's determination, they could immediately suspend or revoke a license if they find one of the following: the licensee violated their consignment sales license; the licensee is selling a motor vehicle without a dealer's license, or; there is intentionally fraudulent conduct related to certificate of a title, mileage disclosure, or use of personal identifying information. If a motor vehicle manufacturer, importer, distributor or dealer has their license denied, suspended or revoked, the bill sets forth a process and a timeline for an appeal before DOT. If the licensee disagrees with the determination in the DOT appeal process, they may be heard by the Division of Hearings and Appeals.



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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 and would allow for action to be taken more swiftly in the future.

Thank you for your consideration of Assembly Bill 852 and Senate Bill 705.



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Thank you, Chairman Petrowski and Chairman Spiros, and committee members for the opportunity to speak in favor of Senate Bill 705 and Assembly Bill 852. Today, I am joined by Mitch Warren who serves as the Deputy Administrator for the Division of Motor Vehicles (DMV).

We are here today because of the situation described by the bill authors. The authors contacted us several months ago to discuss how to prevent another "Standard-Pre-Owned Auto" situation from happening again. We want to thank the authors, along with the WI Auto and Truck Dealers Association, for working with us and putting together a product that will give DMV the necessary tools to enhance consumer safety.

Under Senate Bill 705 (SB 705) and Assembly Bill 852 (AB 852), 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 there are no strictly prescribed timelines which these bills provide.

Senate Bill 705 (SB 705) and Assembly Bill 852 (AB 852) allow, 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. There were already laws in place to prevent these things from happening, however the process was cumbersome and led to further loss to consumers. With this provision in place, we believe we would've greatly reduced the number of harmed consumers, and in the future 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, that 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, we must follow the same cumbersome, lengthy process we do for all revocation/suspensions of dealer licenses, just to remove the ability of these bad actors to access the auction. This common sense provision closes that loophole. These sales are where DMV also commonly sees odometer fraud occurring. Under current law, someone who holds a buyers 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. Senate Bill 705 (SB 705) and Assembly Bill 852 (AB 852) 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.

Kaleb Vander Wiele
Legislative Advisor
Wisconsin Department of Transportation