

HOUSE No. 229

By Mr. Fallon of Malden, petition of Christopher G. Fallon for legislation to establish a car buyer bill of rights. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT ESTABLISHING A CAR BUYER BILL OF RIGHTS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 SECTION 1. Paragraph (A) of subsection (2) of section 7N1/4 of
2 chapter 90 of the General Laws, as appearing in the 2004 Official
3 Edition, is hereby amended by adding the following clause:—
4 (iii) A dealer cannot advertise for sale or sell a used vehicle as
5 “certified” or use any similar descriptive term in the advertisement
6 or the sale of a used vehicle that implies the vehicle has been certi-
7 fied to meet the terms of a used vehicle certification program unless:
8 1) The vehicle has not sustained damage that substantially
9 impairs its use or safety to the buyer.
10 2) The odometer on the vehicle indicates actual mileage, and
11 has not been rolled back or otherwise altered to show fewer miles, or
12 placed with an odometer showing fewer miles than actually driven.
13 3) The dealer has not actual knowledge that the vehicle has been
14 repurchased by a dealer or manufacturer pursuant to a state or fed-
15 eral warranty statute.
16 4) The title to the vehicle has not been inscribed with the nota-
17 tion “Lemon Law Buyback,” “manufacturer repurchase,” “salvage,”
18 “junk,” “nonrepairable,” “flood,” or similar designation or title des-
19 ignation required by this state or another state.
20 5) The vehicle has been inspected by a technician or technician
21 qualified to inspect for collision repair and mechanical condition.
22 6) Prior to sale, the dealer provides the buyer with a completed
23 inspection report indicating all the components inspected pursuant to

24 the vehicle certification program and whether they meet the stan-
25 dards of the vehicle certification program.

1 SECTION 2. Said section 7N1/4 of said chapter 90, as so
2 appearing, is hereby further amended by adding the following para-
3 graph:

4 The office of consumer affairs may impose a fine of no more than
5 \$50 per vehicle per violation for the first violation of this section and
6 no more than \$100 per vehicle per violation for subsequent viola-
7 tions of this section.

1 SECTION 3. Section 9 of chapter 255 of the General Laws, as so
2 appearing in the 2004 Official Edition is hereby amended by adding
3 the following paragraph:—

4 The contract shall further contain the following disclosures, as
5 applicable:

6 1) An itemization of the amount financed which shall include
7 the following:

8 a) the cash price, exclusive of document preparation fees, taxes
9 imposed on the sale, prior credit or lease balance on property being
10 traded in, the amount of any manufacturer's rebate applied, and the
11 amount charged for a service contract;

12 b) the fee to be retained by the seller for document preparation;

13 c) taxes imposed on the sale

14 d) the amount of any manufacturer's rebate;

15 e) the amount of any optional business partnership automation
16 fee to register or transfer the vehicle, which shall be labeled
17 "optional RMV electronic filing fee";

18 f) the amount charged for a service contract;

19 g) the prior credit or lease balance remaining on the property
20 being traded in, which shall be labeled "prior credit or lease
21 balance";

22 h) any charge for an optional debt cancellation agreement;

23 i) the total cash price, which shall be the sum of subparagraphs
24 (a) to (h), inclusive.

25 2) The amount of the buyer's down payment itemized to show
26 the following:

27 a) The agreed value and brief description of the property being
28 traded in, if any;

- 29 b) The prior credit or lease balance, if any, owing on the prop-
30 erty being traded in;
- 31 c) The net agreed value of the property being traded in, which
32 shall be the difference between the amounts disclosed in subpara-
33 graphs (a) and (b). If the prior credit or lease balance of the property
34 being traded in exceeds the agreed value of the property, a negative
35 number shall be stated.
- 36 d) The amount of any portion of the down payment to be
37 deferred and which is not subject to a finance charge.
- 38 e) The amount of any manufacturer's rebate applied or to be
39 applied to the down payment.
- 40 f) The remaining amount paid or to be paid by the buyer as a
41 down payment, which shall be the sum of subparagraphs (a) to (e),
42 inclusive.
- 43 3) The amount financed, which shall be the difference between
44 subparagraph (1) (i) and subparagraph (2) (f).
- 45 4) Any promotional warranty or financing arrangement.

1 SECTION 4. Said chapter 255B is hereby further amended by
2 inserting after section 9 the following 2 sections:—

3 Section 9A.

4 (a) As used in this section the following words shall unless the
5 context requires otherwise have the following meanings:—

6 “Buy rate”, the minimum annual percentage rate (APR) that is
7 communicated to the retail seller at which a sales finance company
8 offers to finance a retail buyer's motor vehicle, or at which a sales
9 finance company offers to purchase, accept assignment or otherwise
10 acquire the retail installment contract.”

11 “Finance markup charge”, any positive difference between the
12 annual percentage rate (APR) of the retail installment contract and
13 the buy rate.”

14 “Consumer reporting agency”, any person who assembles or
15 evaluates consumer credit information or other information on
16 consumers for the purpose of furnishing consumer reports to third
17 parties.

18 (b) Every retail seller, prior to the execution of any retail install-
19 ment sale or retail installment contract, shall disclose to the retail
20 buyer, in writing, the following:

- 21 1) The buyer's consumer credit rating as reported to the retail
22 seller.
- 23 2) The buy rate as communicated to the retail seller by a sales
24 finance company.
- 25 3) The cost incurred by the buyer of any charge for arranging
26 financing, including, but not limited to finance markup charges and
27 processing fees.
- 28 4) Any arrangement to sell, assign, or otherwise transfer the
29 contract to a third party for an amount which is equal to, in excess
30 of, or less than the amount financed under the contract.
- 31 c) The cost for arranging financing, including, but not limited to
32 finance markup charges, shall not exceed the greater of .5 per cent of
33 the loan or \$150.
- 34 d) The retail installment contract shall include the following on
35 a single 8 1/2" x 11" piece of paper in bold and in at least 10-point
36 font, "Notice to the buyer: Your credit rating used to evaluate your
37 credit history for this purchase, as calculated by
38 _____ is _____. The lowest annual percentage interest rate
39 at which a lender would accept this contract or otherwise extend
40 credit to you is ____%. The annual percentage interest rate
41 CHARGED TO YOU is ____% and the total cost of arranging
42 financing for you is _____.
- 43 e) A violation of this section shall be deemed an unfair and
44 deceptive act or practice pursuant to section 2 of chapter 93A.
- 45 Section 9B. The buyer of any used or preowned motor vehicle has
46 the right to cancel a motor vehicle sales contract until midnight of
47 the third business day after the day on which the buyer signs an
48 agreement or offer to purchase.
- 49 1) Cancellation occurs when the buyer gives written notice of
50 cancellation to the seller at the address specified in the contract. To
51 complete the cancellation, the buyer must return the motor vehicle,
52 in substantially as good condition as when received, to the seller at
53 the seller's place of business within 24 hours of providing written
54 notice of termination. A used motor vehicle that is returned with
55 damage sustained as a result of a defect existing at the time of sale
56 shall be deemed to be "insubstantially as good condition as when
57 received" for the purposes of this section.
- 58 2) Notice of cancellation, if given by mail, is effective when
59 deposited in the mail properly addressed with postage paid.

60 3) (a) Notice of cancellation given by the buyer need not take
61 any particular form, as long as it is written, and, however expressed,
62 is effective if it indicates the intention of the buyer not to be bound
63 by the motor vehicle conditional sale contract. (b) Upon completion
64 of cancellation of the contract, the buyer is entitled to a full refund
65 from the seller minus a reasonable offset for mileage added to the
66 odometer after purchase. “A reasonable offset for mileage added to
67 the odometer after purchase” means the sum of the purchase price of
68 the motor vehicle, divided by 120,000 miles, multiplied by the
69 number of miles added to the odometer after purchase. (c) For pur-
70 poses of this section, “seller” does not include a private individual
71 who is not required to be licensed to sell vehicles in California.