

STATE OF NEW YORK

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2019-2020 Regular Sessions

IN SENATE

March 11, 2019

Introduced by Sens. THOMAS, BROOKS, COMRIE, GAUGHRAN, GOUNARDES, JACKSON, KAMINSKY, KAPLAN, LANZA, LIU, MAY, METZGER, MYRIE, PERSAUD, SALAZAR, SAVINO, SEPULVEDA, SKOUFIS, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law and the general business law, in relation to designating new automotive broker businesses

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph a of subdivision 1 of section 415 of the vehicle
2 and traffic law, as amended by chapter 554 of the laws of 2015, is
3 amended and a new paragraph n is added to read as follows:
4 a. "Dealer" means a person engaged in the business of buying, selling
5 or dealing in motor vehicles, motorcycles or trailers, other than mobile
6 homes or manufactured homes, at retail or wholesale; except, however,
7 trailers with an unladen weight of less than one thousand pounds. For
8 the purposes of this section, a "mobile home" or "manufactured home"
9 means a mobile home or manufactured home as defined in section one
10 hundred twenty-two-c of this chapter. Any person who sells, or offers
11 for sale or lease more than five motor vehicles, motorcycles or trailers
12 in any calendar year or who displays or permits the display of three or
13 more motor vehicles, motorcycles or trailers for sale at any one time or
14 within any one calendar month upon premises owned or controlled by him
15 or her, if such vehicles were purchased, acquired or otherwise obtained
16 by such person for the purpose of resale, will be regarded as a dealer.
17 For the purposes of this section, "offers for sale or lease" shall
18 include, but not be limited to, the act of drawing the public's atten-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 tion to, or the presentation or display of any motor vehicle, including
2 the posting of images of any such vehicle, together with an offer to
3 provide, the provision of, or a representation that such person may
4 provide a service of arranging, assisting, facilitating or effecting the
5 lease of such new motor vehicle, except this meaning shall not apply to
6 any activity of a cooperative or other advertising program or fund as
7 described in any franchise, as such term is defined by subdivision six
8 of section four hundred sixty-two of this title. Except as otherwise
9 provided in subdivisions three, five, six-b, and seven of this section,
10 the term "dealer" shall include a "new motor vehicle dealer" as defined
11 by paragraph f of this subdivision and a "qualified dealer" as defined
12 in paragraph g of this subdivision.

13 n. "New automobile broker business" shall have the same meaning as set
14 forth in subdivision four of section seven hundred thirty-six of the
15 general business law.

16 § 2. Section 736 of the general business law is amended by adding a
17 new subdivision 4 to read as follows:

18 4. "New automobile broker business" means any person who, for a fee,
19 commission or other valuable consideration, regardless of whether such
20 fee, commission or consideration is paid directly by a consumer, offers
21 to provide, provides or represents that he or she will provide a service
22 of purchasing, arranging, assisting, facilitating or effecting the
23 purchase or lease of a previously unregistered automobile; through a new
24 motor vehicle dealer, as agent, broker, or intermediary for a consumer.
25 "New automobile broker business" does not include any person registered
26 as a new vehicle dealer for the new automobile brand or brands for which
27 such services are provided, pursuant to article sixteen of the vehicle
28 and traffic law nor any bona fide employee of such a registered dealer
29 while acting for such dealer.

30 § 3. Subdivision 3-a and paragraph b-3 of subdivision 5 of section 415
31 of the vehicle and traffic law, as added by chapter 477 of the laws of
32 2017, are amended to read as follows:

33 3-a. Automobile broker business [~~registration~~] or new automobile
34 broker business. a. No person shall engage in the automobile broker
35 business, the new automobile broker business or represent or advertise
36 that he or she is engaged or intends to engage in the automobile broker
37 business or new automobile broker business in this state, unless there
38 shall have been issued to him or her a certificate of registration as an
39 automobile broker business or new automobile broker business, as the
40 case may be, by the commissioner under this section pursuant to an
41 application for registration submitted pursuant to subdivision five of
42 this section.

43 b. The commissioner shall not issue any certificate of registration
44 authorized by this section to any dealer, franchisee, franchisor,
45 manufacturer, distributor, distributor branch or factory branch, as such
46 terms are defined in section four hundred sixty-two of this title, or to
47 any subsidiary, affiliate or controlled entity thereof.

48 c. As a condition of any certificate of registration issued pursuant
49 to this subdivision, a new automobile broker business shall have, and
50 continuously maintain, a place of business in this state for which it
51 shall keep and maintain evidence that all necessary approvals, licenses
52 and/or permits have been obtained from all local governing bodies to
53 operate such place of business with customer or client traffic.

54 d. Every registered new automobile broker shall prominently and
55 conspicuously post, in such a manner that it is likely to be noticeable

1 to anyone entering its premises, its official business certificate of
2 registration and a sign, which sign shall clearly state:

3 "(Name of registered new automobile broker) is not a franchised new
4 motor vehicle dealership. We are not authorized to perform recall or
5 original factory warranty work. If you order a search for a new motor
6 vehicle from this broker, we must solicit at least three bona fide bids
7 for a new motor vehicle on your behalf, including from your local deal-
8 er."

9 e. A new automobile broker business shall not provide, offer to
10 provide, or represent that he or she will provide a service of purchas-
11 ing, arranging, assisting, facilitating or effecting the purchase or
12 lease of a previously unregistered automobile with a dealer located in
13 any other state unless such state affords lawful means for the same
14 business activity, such standards and requirements are equivalent to
15 those contained in this article and article thirty-five-B of the general
16 business law, the new automobile broker business is registered, permit-
17 ted or licensed to perform such business activity in such other state
18 and is otherwise in good standing with each governmental agency of such
19 other state responsible for regulating such business activity. The
20 commissioner of motor vehicles shall be empowered to determine the
21 substantial equivalence of such other state laws pertaining to the
22 registration, permitting or licensure of such businesses.

23 b-3. In the case of an application for registration as an automobile
24 broker business or new automobile broker business, the name and address
25 of the surety company which will issue the bond required by subdivision
26 one of section seven hundred forty-a of the general business law and a
27 statement indicating any interest in the applicant's business entity by
28 a person or entity described in paragraph (f) of subdivision one or
29 paragraph f of subdivision seven of this section. If the bond is to be
30 issued by an authorized agent of the surety company licensed by the
31 state, then the name and address of that agent may be provided in lieu
32 of the information concerning the surety company.

33 § 4. Subdivision 1 of section 736-a of the general business law, as
34 added by chapter 477 of the laws of 2017, is amended and a new subdivi-
35 sion 3 is added to read as follows:

36 1. (a) No person shall engage in business as an automobile broker
37 business or as a new automobile broker business, as such terms are
38 defined in section seven hundred thirty-six of this article, without
39 first having been issued a certificate of registration for an automobile
40 broker business or new automobile broker business pursuant to paragraph
41 c of subdivision seven of section four hundred fifteen of the vehicle
42 and traffic law. A certificate of registration for a new automobile
43 broker business is valid for a period of two years.

44 (b) No new automobile broker business shall represent or accept
45 payment from, either directly or indirectly, a franchisee, dealer, fran-
46 chisor, manufacturer and/or distributor, as such terms are defined in
47 sections four hundred fifteen and four hundred sixty-two of the vehicle
48 and traffic law.

49 (c) No new automobile broker business shall provide, offer to provide,
50 or represent that he or she will provide a service of purchasing,
51 arranging, assisting, facilitating or effecting the purchase or lease of
52 a previously unregistered automobile with a dealer located in any other
53 state unless such state affords lawful means for the same business
54 activity, such standards and requirements set forth in the laws of such
55 other state are equivalent to those contained in this article, the new
56 automobile broker business has been registered, permitted or licensed to

1 perform such business activity in such other state and is otherwise in
2 good standing with each agency of such other state responsible for regu-
3 lating such business activity. The secretary of state shall be empowered
4 to determine the substantial equivalence of such other state laws
5 pertaining to the regulation of such business activity, including
6 consumer protections in any such law.

7 3. The commissioner of motor vehicles shall make necessary rules and
8 regulations as may be appropriate for the proper enforcement of the
9 provisions of this section.

10 § 5. The general business law is amended by adding a new section 741-c
11 to read as follows:

12 § 741-c. Prohibitions related to private information. No person regis-
13 tered under this article shall request, receive, accept, handle, store
14 or transmit the private information, as such term is defined in para-
15 graph (b) of subdivision one of section eight hundred ninety-nine-aa of
16 this chapter, of any consumer.

17 § 6. Section 737 of the general business law, as added by chapter 616
18 of the laws of 1988, is amended to read as follows:

19 § 737. Advance fees prohibited. No automobile broker business or new
20 automobile broker business shall solicit, receive or collect from a
21 consumer any fee, or commission, in advance of the performance of those
22 services specified in the contract as required by section seven hundred
23 thirty-eight of this article.

24 § 7. The opening paragraph of subdivision 1 of section 738 of the
25 general business law, as amended by chapter 28 of the laws of 2018, is
26 amended to read as follows:

27 Every contract between a consumer and an automobile broker business,
28 which for the purposes of this section shall include new automobile
29 broker businesses, for the purchase of an automobile shall be in writ-
30 ing, shall be dated, shall contain the street address of the automobile
31 broker business and the consumer and shall be signed by the consumer and
32 by the automobile broker business. Every contract shall comply with the
33 requirements set forth in this section and contain the following:

34 § 8. Section 740 of the general business law, as added by chapter 616
35 of the laws of 1988, is amended to read as follows:

36 § 740. Escrow required for advance payments. All monies paid by a
37 consumer to an automobile broker business or a new automobile broker
38 business in connection with a transaction covered by this article shall
39 be trust funds in the possession of such automobile broker business or
40 new automobile broker business and shall be deposited by it within five
41 days after receipt thereof, in an account in a banking organization
42 within the state. The automobile broker business or new automobile
43 broker business shall thereupon notify in writing the consumer, giving
44 the name and address of the banking organization and the amount deposit-
45 ed. The monies shall be held on deposit until fully applied to the
46 contract price at the time the automobile is delivered to the consumer,
47 unless sooner repaid in accordance with the provisions of this article.

48 § 9. Section 740-a of the general business law, as added by chapter
49 579 of the laws of 2011 and subdivision 1 as amended by chapter 477 of
50 the laws of 2017, is amended to read as follows:

51 § 740-a. Automobile broker business and new automobile broker business
52 surety bond. 1. Automobile broker businesses shall obtain and continue
53 in effect a surety bond in an amount of one hundred thousand dollars
54 executed by a surety company authorized to transact business in the
55 state by the department of financial services of the state or its
56 successor. New automobile broker businesses shall obtain and continue

1 in effect a surety bond in an amount of two hundred fifty thousand
2 dollars executed by a surety company authorized to transact business in
3 the state by the department of financial services of the state or its
4 successor. The bonds shall be approved as to form by the secretary of
5 state and shall be conditioned on the automobile broker business' or new
6 automobile broker business' payment of all valid bank drafts, including
7 checks, drawn for the purchase of motor vehicles and safekeeping of all
8 customer deposits related to the sale of a motor vehicle between the
9 time of receipt of such customer deposit and the transfer of good title
10 to the vehicle to the customer.

11 2. Recovery against a bond may be made by a person, including the
12 state, who obtains a judgment against the automobile broker business or
13 new automobile broker business for an act or omission on which the bond
14 is conditioned if the act or omission occurred during the term of the
15 bond. The total liability imposed on the surety under this section for
16 all breaches of the bond condition is limited to the face amount of the
17 bond. Such liability may include, but is not limited to, the amount of
18 the valid bank drafts, including checks, drawn by the automobile broker
19 business or new automobile broker business for the purchase of motor
20 vehicles. In no event shall the surety on a bond be liable for total
21 claims in excess of the bond amount, regardless of the number or nature
22 of claims made against the bond or the number of years the bond remained
23 in force.

24 3. Any surety issuing a bond pursuant to this subdivision shall be
25 required to provide sixty days' notice to the secretary of state prior
26 to the effective date of cancellation of the bond.

27 § 10. Section 741 of the general business law, as added by chapter 616
28 of the laws of 1988, is amended to read as follows:

29 § 741. Deceptive acts and frauds prohibited. 1. It is hereby declared
30 to be a deceptive trade practice and unlawful for an automobile broker
31 business or new automobile broker business to misrepresent directly or
32 indirectly in its advertising, promotional materials, sales presenta-
33 tion, or in any manner:

34 [~~1-~~] (a) The nature of the services to be performed and in the case of
35 a new automobile broker that a third party will be paying for any such
36 services;

37 [~~2-~~] (b) The time within which the services will be performed;

38 [~~3-~~] (c) The cost of the services to be performed; [and

39 4-] (d) The ability of the automobile broker business or new automo-
40 bile broker business to perform the services; and

41 (e) That the automobile broker business or new automobile broker busi-
42 ness is affiliated with any automobile manufacturer and/or distributor,
43 including the use of any trademarks or copyrighted material without the
44 express, written consent of the owner of such material.

45 2. It shall be a fraudulent business practice for an automobile broker
46 business or new automobile broker business to refuse to disclose to a
47 motor vehicle dealer or new motor vehicle dealer the registration number
48 provided by the department of motor vehicles pursuant to section four
49 hundred fifteen of the vehicle and traffic law. Furthermore, it shall
50 also be a fraudulent business practice for an automobile broker business
51 or new automobile broker business to make any misrepresentation to a
52 motor vehicle dealer or new motor vehicle dealer regarding the eligibil-
53 ity of any consumer for any discounts, reductions or any benefit
54 programs regarding the sale or lease of a motor vehicle.

55 3. It shall be a fraudulent business practice for a new automobile
56 broker business to fail to make a bona fide attempt to obtain a quote or

1 offer from at least three unaffiliated dealers on behalf of a prospec-
2 tive buyer or lessee for a vehicle meeting the prospective buyer or
3 lessee's specifications, including the new motor vehicle dealer located
4 in closest proximity to the address of such prospective buyer or
5 lessee's home or, in the case of any entity, its place of doing busi-
6 ness.

7 4. It shall be a fraudulent business practice for a new automobile
8 broker business to fail to act for the benefit of the prospective buyer
9 or lessee, including by failing to make reasonable efforts to obtain the
10 lowest possible price, down payment, number of payments, amount of
11 payments, finance charges, annual percentage rate and/or fees for a new
12 motor vehicle that meets the specifications of such prospective buyer or
13 lessee.

14 § 11. Section 741-a of the general business law, as amended by chapter
15 477 of the laws of 2017, is amended to read as follows:

16 § 741-a. Advertising. Automobile broker businesses and new automobile
17 broker businesses shall clearly and conspicuously disclose the following
18 in all advertisements in any medium, and in any print advertisement such
19 disclosures shall not appear in any footnotes and shall be situated in
20 the top half of any such advertisement in an easily readable typeface:

21 (a) That the automobile broker business or new automobile broker busi-
22 ness is not a registered new motor vehicle dealer but is a registered
23 automobile broker business or new automobile broker business as defined
24 in section four hundred fifteen of the vehicle and traffic law;

25 (b) The registration number issued to the automobile broker business
26 or new automobile broker business pursuant to section four hundred
27 fifteen of the vehicle and traffic law;

28 (c) Whether any fees may be imposed by the automobile broker business
29 or new automobile broker business for services rendered. Details of such
30 compensation shall be provided by the automobile broker business or new
31 automobile broker business upon request by the consumer; and

32 (d) That no warranty repair services will be provided by the automo-
33 bile broker business or new automobile broker business.

34 § 12. Section 741-b of the general business law, as added by chapter
35 28 of the laws of 2018, is amended to read as follows:

36 § 741-b. [~~Disclosure~~] Disclosures. 1. An automobile broker business
37 or new automobile broker business shall provide a disclosure at the time
38 such automobile broker business or new automobile broker business takes
39 an order to search for a leased or purchased vehicle meeting the
40 prospective buyer or lessee's specifications. Such disclosure shall
41 provide the amount of any fees, commissions or other valuable consider-
42 ation the automobile broker business or new automobile broker business
43 expects to receive for any assistance the automobile broker business
44 provides in effecting the lease or purchase transaction, including any
45 reasonably foreseeable fees or charges, including delivery fees. In the
46 case of an automobile broker business this shall include, if known, any
47 payments from a dealer, lessor or any other person or entity for any
48 assistance the automobile broker business provides in effecting the
49 lease or purchase transaction. If the amount of any such fees, commis-
50 sions or other valuable consideration the automobile broker business
51 expects to receive is unknown at the time of the required disclosure,
52 the automobile broker business shall disclose: (a) whether it has a
53 contract with any dealer, lessor or any other person or entity for the
54 provision of assistance in effecting a lease transaction; and (b) wheth-
55 er the automobile broker business may be compensated by the dealer,
56 lessor or any other person or entity for any assistance in effecting

1 such lease transaction. Nothing in this subdivision shall be construed
2 to permit the payment of any fees, commissions or other valuable consid-
3 eration to a new automobile broker business by any dealer.

4 2. A new automobile broker business shall provide an additional
5 disclosure at the time such new automobile broker business takes an
6 order to search for a vehicle meeting the prospective buyer or lessee's
7 specifications. Such additional disclosure shall state that the broker
8 shall make a bona fide attempt to obtain a bid, quote or offer from at
9 least three unaffiliated dealers on behalf of the prospective buyer or
10 lessee for a vehicle meeting the prospective buyer or lessee's specifi-
11 cations, including from the new motor vehicle dealer of such line make
12 located closest to the home or place of business of such prospective
13 buyer and that the new automobile broker has a duty to act for the bene-
14 fit of the prospective buyer or lessee, including by making reasonable
15 efforts to obtain the lowest possible price, down payment, number of
16 payments, amount of payments, finance charges, annual percentage rate
17 and/or fees.

18 3. Each disclosure required by this section shall be acknowledged in
19 writing by each respective prospective buyer or lessee.

20 § 13. Section 742 of the general business law, as added by chapter 616
21 of the laws of 1988, is amended to read as follows:

22 § 742. Action for recovery of damages by consumer. Any consumer
23 injured by a violation of this article or by the breach by an automobile
24 broker business or new automobile broker business of a contract which
25 has been entered into pursuant to section seven hundred thirty-nine of
26 this article may bring an action for recovery of damages. Judgment shall
27 be entered in favor of a consumer in an amount not to exceed three times
28 the actual damages, but in no case less than the amount paid by the
29 buyer to the automobile broker business or new automobile broker busi-
30 ness. The court may award reasonable attorney's fees to a prevailing
31 plaintiff.

32 § 14. Section 743 of the general business law, as amended by chapter
33 372 of the laws of 2016, is amended to read as follows:

34 § 743. Enforcement [~~by~~]. 1. By attorney general. In addition to the
35 other remedies provided, whenever there shall be a violation of this
36 article, application may be made by the attorney general in the name of
37 the people of the state of New York to a court or justice having juris-
38 diction by a special proceeding to issue an injunction, and upon notice
39 to the defendant of not less than five days, to enjoin and restrain the
40 continuance of such violations; and if it shall appear to the satisfac-
41 tion of the court or justice that the defendant has, in fact, violated
42 this article, an injunction may be issued by such court or justice,
43 enjoining and restraining any further violation, without requiring proof
44 that any person has, in fact, been injured or damaged thereby. In any
45 such proceeding, the court may make allowances to the attorney general
46 as provided in paragraph six of subdivision (a) of section eighty-three
47 hundred three of the civil practice law and rules, and direct restitu-
48 tion. Whenever the court shall determine that a violation of this arti-
49 cle has occurred, the court shall impose a civil penalty of not less
50 than one thousand dollars and not more than three thousand dollars for
51 each violation. In the case of an automobile broker, not less than one
52 thousand dollars and not more than three thousand dollars for each
53 violation; and in the case of a new automobile broker, not less than
54 four thousand dollars and not more than ten thousand dollars for each
55 violation. In connection with any such proposed application, the attor-
56 ney general is authorized to take proof and make a determination of the

1 relevant facts and to issue subpoenas in accordance with the civil prac-
2 tice law and rules.

3 In connection with any such proposed application, the attorney general
4 is authorized to take proof and make a determination of the relevant
5 facts and to issue subpoenas in accordance with the civil practice law
6 and rules.

7 2. By local authorities. Municipalities may, pursuant to local law,
8 act upon the business activity that is the subject of this article,
9 provided that no local government may diminish the protections or
10 requirements of this article or prevent enforcement of its provisions by
11 appropriate state officials.

12 3. By private party. Any persons injured by any violation of this
13 article may bring an action in his or her own name to enjoin such unlaw-
14 ful act or practice, an action to recover his or her actual damages and
15 statutory damages of four thousand dollars, or both such actions. In the
16 case of a new motor vehicle dealer, injury shall include depriving a new
17 motor vehicle dealer located closest to a lessee or purchaser the oppor-
18 tunity to bid on such lease or purchase as entitled by this article.
19 Damages shall include incentive payments, bonuses, holdbacks or similar
20 payments that would have been realized had a lessee or purchaser
21 purchased or leased such vehicle from the new motor vehicle dealer in
22 closest proximity to such lessee or purchaser but for the actions of a
23 person who knowingly aided the violation of the provisions of this arti-
24 cle. In any such judicial action or proceeding, the court may award
25 reasonable attorney's fees and costs. Such actions may be brought
26 regardless of whether or not the underlying violation is consumer-or-
27 iented or has a public impact. The court may, in its discretion,
28 increase the award of damages if the court finds the defendant willfully
29 or knowingly violated this section. The court shall award reasonable
30 attorney's fees and costs to a prevailing plaintiff.

31 § 15. Section 415 of the vehicle and traffic law is amended by adding
32 two new subdivisions 21 and 22 to read as follows:

33 21. Penalties and rights of action for failure to obtain a certificate
34 of registration as a new automobile broker pursuant to subdivision
35 three-a and paragraph b-3 of subdivision five of this section. a. The
36 commissioner, or any person designated by him or her, may proceed
37 against a party who has operated as a new automobile broker without
38 certificate of registration in accordance with the provisions of this
39 article, in any one or more proceedings and by order require the offend-
40 ing party to pay the people of this state a penalty in a sum not to
41 exceed two thousand dollars for each violation found to have been
42 committed. Civil penalties assessed under this subdivision shall be paid
43 to the commissioner for deposit into the state treasury, and unpaid
44 civil penalties may be recovered by the commissioner in a civil action
45 in the name of the commissioner. For the purposes of this subdivision, a
46 "violation" shall mean each vehicle sold or leased to a consumer for
47 which the party that failed to obtain certification as a new automobile
48 broker has served as a new automobile broker.

49 b. In addition to any civil action brought by the commissioner or any
50 person appointed by him, any persons injured by any violation of subdivi-
51 sion three-a and paragraph b-3 of subdivision five of this section,
52 shall be entitled to sue for and have injunctive relief and damages
53 against, any party in violation of subdivision three-a and paragraph b-3
54 of subdivision five of this section in any court of the state having
55 jurisdiction over the parties. In the case of a new motor vehicle deal-
56 er, injury shall include depriving the new motor vehicle dealer located

1 closest to a lessee or purchaser the opportunity to bid on such lease or
2 purchase as entitled by this article. Damages shall include incentive
3 payments, bonuses, holdbacks or similar payments that would have been
4 realized had a lessee or purchaser purchased or leased such vehicle from
5 the new motor vehicle dealer in closest proximity to such lessee or
6 purchaser but for the actions of a person who knowingly aided the
7 violation of the provisions of this article. In any such judicial action
8 or proceeding, the court may award reasonable attorney's fees and costs.
9 Such actions may be brought regardless of whether or not the underlying
10 violation is consumer-oriented or has a public impact. The court may, in
11 its discretion, increase the award of damages if the court finds the
12 defendant willfully or knowingly violated this section. The court shall
13 award reasonable attorney's fees and costs to a prevailing plaintiff.

14 22. New automobile broker record requirements. a. New automobile
15 brokers shall maintain a permanently bound book in which shall be
16 recorded the make, model, year color and vehicle identification number
17 of all previously unregistered automobiles for which such broker has
18 provided a service of purchasing, arranging, assisting, facilitating or
19 effecting the purchase or lease of such automobile within any preceding
20 six-year period. Such book shall also have recorded a record of the
21 name and address of the purchaser or lessor of such automobile, the date
22 of sale or commencement of lease of such automobile and the name and
23 address of the dealer from which the automobile was purchased or leased.

24 b. New automobile brokers shall maintain a permanently bound book in
25 which shall be recorded all completed orders to search for a previously
26 unregistered automobile. Such book shall also have recorded a record of
27 the date of such order, the name and address of the person or entity
28 ordering such search, the automobile specifications provided by such
29 prospective buyer or lessee and the name and address of the dealers
30 solicited for a quote or offer on behalf of such prospective buyer or
31 lessee.

32 c. Such books shall be open for inspection by the commissioner, or his
33 or her agent, during reasonable business hours. The commissioner may
34 establish by rule the form of any such book.

35 d. As an alternative to a bound book, a new automobile broker may use
36 a computer and software approved by the department to maintain the
37 records required to be kept by this section, provided all information
38 required by paragraphs a and b of this section are recorded and the
39 records conform to such additional requirements as determined by the
40 commissioner.

41 § 16. Section 465 of the vehicle and traffic law is amended by adding
42 a new subdivision 8 to read as follows:

43 8. A franchisor may require a franchisee to submit to a franchisor the
44 name and registration number of any new automobile broker business that
45 arranged, assisted, facilitated or effected the purchase or lease of any
46 vehicle from such dealer. A franchisor may charge back the franchisee
47 any sales, advertising or marketing incentive payment or any other
48 payment or benefit associated with the sale or lease of such vehicle for
49 failure to submit such information.

50 § 17. This act shall take effect immediately; provided that all auto-
51 mobile brokers registered on the effective date of this act shall have
52 ninety days to come into compliance with the provisions of this act.