

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Cities

AN ACT to amend the administrative code of the city of New York, in relation to requiring certain contracts to be written in the language in which such contracts were negotiated

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The administrative code of the city of New York is amended
2 by adding a new section 20-700.1 to read as follows:
3 S 20-700.1 CONTRACTS IN CERTAIN LANGUAGES FOR THE SALE OR LEASE OF NEW
4 OR USED MOTOR VEHICLES. ANY RETAIL MOTOR VEHICLE DEALER WHO NEGOTIATES
5 PRIMARILY IN A LANGUAGE OTHER THAN ENGLISH, ORALLY OR IN WRITING, IN THE
6 COURSE OF ENTERING INTO A CONTRACT FOR THE SALE OR LEASE OF A NEW OR
7 USED MOTOR VEHICLE, SHALL DELIVER TO THE CONSUMER WHO IS THE OTHER PARTY
8 TO SUCH CONTRACT AND PRIOR TO THE EXECUTION OF SUCH CONTRACT, AN
9 UNSIGNED TRANSLATION OF SUCH CONTRACT, IN THE LANGUAGE IN WHICH SUCH
10 CONTRACT WAS NEGOTIATED.
11 A. IN ADDITION TO THE PENALTIES IMPOSED UNDER THIS SUBCHAPTER, FAILURE
12 TO COMPLY WITH THE PROVISIONS OF THIS SECTION SHALL ENTITLE THE
13 AGGRIEVED CONSUMER TO CANCEL SUCH CONTRACT. UPON A FAILURE TO COMPLY
14 WITH THE PROVISIONS OF THIS SECTION, THE AGGRIEVED CONSUMER MAY CANCEL
15 THE CONTRACT. FOR PURPOSES OF THIS SECTION, CANCELLATION SHALL BE DEEMED
16 TO HAVE OCCURRED WHEN WRITTEN NOTICE OF CANCELLATION IS GIVEN TO THE
17 RETAIL DEALER. NOTICE OF CANCELLATION, IF MAILED, SHALL BE DEEMED DELIV-
18 ERED ON THE DATE OF THE POSTMARK. NOTICE OF CANCELLATION SHALL BE SUFFI-
19 CIENT IF SUCH NOTICE INDICATES THE INTENTION OF THE CONSUMER NOT TO BE
20 BOUND BY SUCH CONTRACT. IF A CONSUMER CANCELS A CONTRACT PURSUANT TO
21 THIS SUBDIVISION, THE RETAIL DEALER SHALL NOT IMPOSE ANY PENALTY OR
22 OBLIGATION UPON SUCH CONSUMER. WHEN A CONTRACT, WHICH HAS BEEN SOLD AND
23 ASSIGNED TO A FINANCIAL INSTITUTION IS CANCELED PURSUANT TO THIS

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

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1 SECTION, SUCH CONSUMER SHALL MAKE RESTITUTION TO AND HAVE RESTITUTION
2 MADE BY THE RETAIL DEALER WITH WHOM HE OR SHE MADE THE CONTRACT, AND
3 SHALL GIVE NOTICE OF CANCELLATION TO THE ASSIGNEE. NOTWITHSTANDING THAT
4 THE CONTRACT WAS ASSIGNED WITHOUT RECOURSE, THE ASSIGNMENT SHALL BE
5 DEEMED CANCELED AND THE ASSIGNOR SHALL PROMPTLY REPURCHASE THE CONTRACT
6 FROM THE ASSIGNEE.

7 B. THE TERMS OF THE CONTRACT WHICH IS EXECUTED IN THE ENGLISH LANGUAGE
8 SHALL DETERMINE THE RIGHTS AND OBLIGATIONS OF THE PARTIES. HOWEVER, THE
9 TRANSLATION OF THE CONTRACT IN ANY LANGUAGE OTHER THAN ENGLISH IN WHICH
10 THE CONTRACT WAS NEGOTIATED SHALL BE ADMISSIBLE IN EVIDENCE ONLY TO SHOW
11 THAT NO CONTRACT WAS ENTERED INTO BECAUSE OF A SUBSTANTIAL DIFFERENCE IN
12 THE MATERIAL TERMS AND CONDITIONS OF THE CONTRACT AND THE TRANSLATION.

13 C. THE PROVISIONS OF THIS SECTION SHALL BE IN ADDITION TO ANY OTHER
14 RIGHTS TO REVOKE AN OFFER.

15 S 2. This act shall take effect on the one hundred twentieth day after
16 it shall have become a law and shall apply to contracts entered into on
17 or after such date.