S T A T E O F N E W Y O R K

8210

2015-2016 Regular Sessions

I N A S S E M B L Y

June 11, 2015

Introduced by M. of A. DenDEKKER -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to the prohibition of the installation of starter interrupt devices on certain new and used motor vehicles

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

Section 1. The general business law is amended by adding a new article 11-C to read as follows:

ARTICLE 11-C

STARTER INTERRUPT DEVICE INSTALLATION PROHIBITED

SECTION 199-O. DEFINITIONS.
199-P. VIOLATIONS.
199-Q. EXCEPTIONS.
199-R. CIVIL PENALTY.
199-S. RULES AND REGULATIONS.
199-T. ENFORCEMENT BY ATTORNEY GENERAL.

S 199-O. DEFINITIONS. THE FOLLOWING TERMS WHEN USED IN THIS ARTICLE, SHALL HAVE THE FOLLOWING MEANINGS:

1. "DEALER" AS DEFINED IN SECTION FOUR HUNDRED FIFTEEN OF THE VEHICLE AND TRAFFIC LAW.

2. "MOTOR VEHICLE" AS DEFINED IN SECTION ONE HUNDRED TWENTY-FIVE OF THE VEHICLE AND TRAFFIC LAW AND EXCLUDING CLASS A, B AND C LIMITED USE MOTORCYCLES AS DEFINED IN SECTION ONE HUNDRED TWENTY-ONE-B OF THE VEHICLE AND TRAFFIC LAW.

3. (A) "STARTER INTERRUPT DEVICE" SHALL MEAN A DEVICE WHICH TRACKS A MOTOR VEHICLE PURCHASER'S OR LESSEE'S SCHEDULED PAYMENTS UNDER A FINANCING OR LEASE AGREEMENT AND PREVENTS THE VEHICLE FROM STARTING IF A SCHEDULED PAYMENT IS NOT RECEIVED BY ITS DUE DATE OR WITHIN ANY APPLICABLE GRACE PERIOD. SUCH DEVICE TYPICALLY REQUIRES THE CONSUMER TO ENTER A CODE FOR EACH PAYMENT PERIOD IN ORDER TO CONTINUE OPERATING THE VEHICLE.

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

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THE CONSUMER RECEIVES THE PAYMENT CODES THAT WILL ALLOW THE VEHICLE TO CONTINUE TO START FROM THE CREDITOR WHEN PAYMENT IS TENDERED. SUCH DEVICE MAY INCLUDE A GLOBAL POSITIONING SYSTEM (GPS) TRACKING CAPABILITY. GPS TRACKING DEVICES THAT ARE SEPARATE FROM, AND INDEPENDENT OF, STARTER INTERRUPT DEVICES SHALL BE EXEMPT FROM THIS PROHIBITION.

(B) "STARTER INTERRUPT DEVICE" SHALL NOT MEAN ANY IGNITION INTERLOCK DEVICE WHOSE INSTALLATION AND USE IS MANDATED BY COURT ORDER, OR ANY IGNITION INTERLOCK DEVICE WHOSE SOLE PURPOSE IS TO PREVENT DRIVING UNDER THE INFLUENCE OR REPORTING ATTEMPTED DRIVING UNDER THE INFLUENCE. "STARTER INTERRUPT DEVICE" SHALL NOT MEAN ANY AFTER MARKET CONSUMER-INSTALLED OR MANUFACTURER-INSTALLED REMOTE DISABLING DEVICE, PROVIDED THAT THESE DEVICES SHALL ONLY BE USED IN THE EVENT OF THEFT BY A THIRD PARTY AND NOT FOR PURPOSES OF REPOSSESSION BY A LENDER OR SELLER. BUYERS MAY NOT CONSENT TO USE THESE DEVICES FOR THE PURPOSES OF REPOSSESSION.

S 199-P. VIOLATIONS. NO NEW OR USED MOTOR VEHICLE DEALER OR LENDER SHALL BE PERMITTED TO INSTALL A STARTER INTERRUPT DEVICE ON A MOTOR VEHICLE PURCHASER'S OR LESSEE'S MOTOR VEHICLE.

S 199-Q. EXCEPTIONS. THE PROVISIONS OF THIS ARTICLE SHALL NOT APPLY TO ANY RENTAL VEHICLE COMPANY AS DEFINED IN PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY-SIX-Z OF THIS CHAPTER.

S 199-R. CIVIL PENALTY. A KNOWING VIOLATION OF THIS SECTION SHALL BE PUNISHABLE BY A FINE NOT TO EXCEED FIVE THOUSAND DOLLARS.

S 199-S. RULES AND REGULATIONS. THE COMMISSIONER OF THE DEPARTMENT OF MOTOR VEHICLES, IN CONJUNCTION WITH THE ATTORNEY GENERAL, SHALL PROMULGATE SUCH RULES AND REGULATIONS AS SHALL BE NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS ARTICLE.

S 199-T. ENFORCEMENT BY ATTORNEY GENERAL. WHENEVER THERE SHALL BE A VIOLATION OF THIS ARTICLE, AN APPLICATION MAY BE MADE BY THE ATTORNEY GENERAL IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK TO A COURT OF COMPETENT JURISDICTION BY A SPECIAL PROCEEDING FOR THE IMPOSITION OF A FINE AND THE ISSUANCE OF AN INJUNCTION AGAINST ANY VIOLATION OF THIS ARTICLE, UPON NOTICE TO THE DEFENDANT OF NOT LESS THAN FIVE DAYS, TO ENJOIN AND RESTRAIN THE CONTINUANCE OF SUCH VIOLATIONS; AND IF IT SHALL APPEAR TO THE SATISFACTION OF THE COURT OR JUSTICE THAT THE DEFENDANT HAS, IN FACT, VIOLATED THIS ARTICLE, AN INJUNCTION MAY BE ISSUED BY SUCH COURT OR JUSTICE, ENJOINING AND RESTRAINING ANY FURTHER VIOLATION, WITHOUT REQUIRING PROOF THAT ANY PERSON HAS, IN FACT, BEEN INJURED OR DAMAGED THEREBY. IN ANY SUCH PROCEEDING, THE COURT MAY MAKE ALLOWANCES TO THE ATTORNEY GENERAL AS PROVIDED IN PARAGRAPH SIX OF SUBDIVISION (A) OF SECTION EIGHTY-THREE HUNDRED THREE OF THE CIVIL PRACTICE LAW AND RULES, AND DIRECT RESTITUTION. WHENEVER THE COURT SHALL DETERMINE THAT A VIOLATION OF THIS ARTICLE HAS OCCURRED, THE COURT SHALL IMPOSE A CIVIL PENALTY OF NOT MORE THAN FIVE THOUSAND DOLLARS FOR EACH VIOLATION. IN CONNECTION WITH ANY SUCH PROPOSED APPLICATION, THE ATTORNEY GENERAL IS AUTHORIZED TO TAKE PROOF AND MAKE A DETERMINATION OF THE RELEVANT FACT AND TO ISSUE SUBPOENAS IN ACCORDANCE WITH THE CIVIL PRACTICE LAW AND RULES.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.