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

5269--C

2015-2016 Regular Sessions

I N S E N A T E

May 12, 2015

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Judiciary in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the uniform commercial code and the general business law, in relation to prohibiting auto lenders from remotely disabling a vehicle without first giving notice of the disabling to the borrower

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

Section 1. Subsection (a) of section 9-102 of the uniform commercial code is amended by adding a new paragraph 60-a to read as follows:

(60-A) "PAYMENT ASSURANCE DEVICE" MEANS ANY DEVICE INSTALLED IN A VEHICLE THAT CAN BE USED TO REMOTELY DISABLE THE VEHICLE.

S 2. Subdivision 10 of section 601 of the general business law, as added by chapter 342 of the laws of 2011, is renumbered subdivision 11 and amended and a new subdivision 10 is added to read as follows:

10. REMOTELY DISABLE A VEHICLE USING A PAYMENT ASSURANCE DEVICE DEFINED IN PARAGRAPH SIXTY-A OF SUBSECTION (A) OF SECTION 9-102 OF THE UNIFORM COMMERCIAL CODE OR BY ANY OTHER MEANS IN ORDER TO REPOSSESS A DEBTOR'S VEHICLE WITHOUT FIRST HAVING GIVEN WRITTEN NOTICE OF THE POSSIBLE REMOTE DISABLING OF A VEHICLE IN THE METHOD AND TIMETABLE AGREED UPON BY THE CONSUMER AND THE CREDITOR IN THE INITIAL CONTRACT FOR SERVICES. THE NOTICE SHALL BE MAILED BY REGISTERED OR CERTIFIED MAIL TO THE ADDRESS AT WHICH THE DEBTOR WILL BE RESIDING ON THE EXPECTED DATE OF THE REMOTE DISABLING OF THE VEHICLE. THE NOTICE SHALL BE POSTMARKED NO LATER THAN TEN DAYS PRIOR TO THE DATE ON WHICH THE PRINCIPAL CREDITOR OR HIS AGENT OBTAINS THE RIGHT TO REMOTELY DISABLE THE VEHICLE; OR

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

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11. If such principal creditor or agent sends more than fifty information subpoenas per month, fail to keep complete records concerning all information subpoenas sent by such principal creditor or agent. Such records shall be maintained for five years. Contemporaneous records shall be kept that set forth with specificity the grounds for such principal creditor or agent's reasonable belief, which must be certified and accompany each information subpoena pursuant to rule fifty-two hundred twenty-four of the civil practice law and rules, that the party receiving the subpoena has in its possession information about the debtor that will assist the creditor in collecting his or her judgement. In addition to any other penalty that [my] MAY be imposed, failure to maintain records in accordance with this subdivision shall subject such principal creditor or agent to a civil penalty of not more than fifty dollars per subpoena, up to a maximum of five thousand dollars per violation, in an action brought by the attorney general[.]; OR

S 3. This act shall take effect immediately.