

STATE OF NEW YORK

4608--B

2017-2018 Regular Sessions

IN SENATE

February 21, 2017

Introduced by Sen. HAMILTON -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- recommitted to the Committee on Consumer Protection 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 general business law and the vehicle and traffic law, in relation to requiring the consent of all parties for any transaction involving a motor vehicle where there are multiple purchasers, sellers, or lessees

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "Safe Vehicle Transfer Act".
3 § 2. Section 396-qq of the general business law, as added by chapter
4 553 of the laws of 1996, is amended to read as follows:
5 § 396-qq. New and used motor vehicles; sales and leases. 1. Defi-
6 nitions. The following terms when used in this section, shall be deemed
7 to mean and include:
8 a. "Dealer" as defined in section four hundred fifteen of the vehicle
9 and traffic law.
10 b. "Motor vehicle" as defined in section one hundred twenty-five of
11 the vehicle and traffic law and excluding class A, B and C limited use
12 motorcycles as defined in section one hundred twenty-one-b of the vehi-
13 cle and traffic law.
14 2. Whenever a dealer provides to a purchaser or lessee of a motor
15 vehicle the service of securing a registration and/or certificate of
16 title for such vehicle from the commissioner of motor vehicles or his
17 issuing agent, the dealer shall either calculate the actual registration

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

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1 and/or certificate of title charges due, or make a good faith estimate
2 in each transaction of the amount of such charges on the sales contract
3 or lease agreement. If such charges are estimated, the dealer shall set
4 forth on such sales contract or lease agreement or on a separate docu-
5 ment to be [~~initialled~~] initialed by the purchaser or lessee in conspic-
6 uous boldface type, the following disclosure: "THE AMOUNT INDICATED ON
7 THIS SALES CONTRACT OR LEASE AGREEMENT FOR REGISTRATION AND TITLE FEES
8 IS AN ESTIMATE. IN SOME INSTANCES, IT MAY EXCEED THE ACTUAL FEES DUE THE
9 COMMISSIONER OF MOTOR VEHICLES. THE DEALER WILL AUTOMATICALLY, AND WITH-
10 IN SIXTY DAYS OF SECURING SUCH REGISTRATION AND TITLE, REFUND ANY AMOUNT
11 OVERPAID FOR SUCH FEES." If such charges are estimated, the dealer
12 shall, within sixty days of securing such registration and title, refund
13 to the purchaser or lessee the difference between the estimated amount
14 collected from such purchaser or lessee by the dealer and the actual
15 fees paid to the commissioner of motor vehicles by the dealer.

16 3. A dealer shall not complete a purchase, lease, or sale of a new or
17 used motor vehicle in which there is more than one purchaser, seller, or
18 lessee without each party to the transaction executing the purchase,
19 lease or sales agreement.

20 4. Where a violation of this section is alleged to have occurred, the
21 attorney general may apply in the name of the people of the state of New
22 York to the supreme court of the state of New York within the judicial
23 district in which such violation is alleged to have occurred, on notice
24 of five days, for an order enjoining or restraining the continuance of
25 such violation. In any such proceeding the court may impose a civil
26 penalty in an amount not to exceed five hundred dollars and order resti-
27 tution to aggrieved consumers.

28 § 3. The vehicle and traffic law is amended by adding a new section
29 417-c to read as follows:

30 § 417-c. Proof of consent of all parties prior to purchase, sale, or
31 lease of a motor vehicle. 1. A dealer shall not complete a purchase,
32 lease, or sale of a new or used motor vehicle in which there is more
33 than one purchaser, seller, or lessee without each party to the trans-
34 action executing the purchase, lease or sales agreement.

35 2. a. Upon any violation of this section, an application may be made
36 by the attorney general in the name of the people of the state of New
37 York to a court or justice having jurisdiction to issue an injunction,
38 and upon notice to the defendant of not less than five days, to enjoin
39 and restrain the continuance of the violation. If it shall appear to the
40 satisfaction of the court or justice that the defendant has violated
41 this section, an injunction may be issued by the court or justice,
42 enjoining and restraining any further violation, without requiring proof
43 that any person has, in fact, been injured or damaged thereby. In any
44 such proceeding, the court may make allowances to the attorney general
45 as provided in paragraph six of subdivision (a) of section eighty-three
46 hundred three of the civil practice law and rules, and direct restitu-
47 tion.

48 b. Whenever the court shall determine that a violation of this section
49 has occurred, it may impose a civil penalty of not more than one thou-
50 sand dollars for each violation. In connection with an application made
51 under this subdivision, the attorney general is authorized to take proof
52 and to make a determination of the relevant facts and to issue subpoenas
53 in accordance with the civil practice law and rules.

54 § 4. Subdivision (a) of section 2114 of the vehicle and traffic law,
55 as amended by chapter 521 of the laws of 1972, is amended to read as
56 follows:

1 (a) If a dealer buys a vehicle and holds it for resale and procures
2 the certificate of title from the owner within ten days after delivery
3 to him of the vehicle, he need not send the certificate to the commis-
4 sioner but, upon transferring the vehicle to another person other than
5 by the creation of a security interest, shall promptly execute the
6 assignment and warranty of title by a dealer, showing the names and
7 addresses of the transferee and of any lienholder holding a security
8 interest created or reserved at the time of the resale, in the spaces
9 provided therefor on the certificate or as the commissioner prescribes,
10 and mail or deliver the certificate to the commissioner with the
11 transferee's application for a new certificate. If there is more than
12 one owner, the dealer shall also submit evidence of the consent of each
13 owner to transfer the vehicle, which may be the submission of a nota-
14 rized document with the signature of all owners of the vehicle with such
15 application. The assignment and warranty of title by a dealer required
16 by this section shall include a statement, signed by the dealer stating
17 either (i) any facts or information known to him that could reasonably
18 affect the validity of the title of the vehicle, or (ii) that no such
19 facts or information are known to him.

20 § 5. This act shall take effect on the one hundred eightieth day after
21 it shall have become a law; provided, however, that effective immediate-
22 ly, the addition, amendment and/or repeal of any rule or regulation
23 necessary for the implementation of this act on its effective date are
24 authorized and directed to be made and completed on or before such
25 effective date.