

STATE OF NEW YORK

10160

IN ASSEMBLY

March 21, 2018

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

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:

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

3 (60-a) "Payment assurance device" means any device installed in a
4 vehicle that can be used to remotely disable the vehicle.

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

8 10. Remotely disable a vehicle using a payment assurance device
9 defined in paragraph sixty-a of subsection (a) of section 9-102 of the
10 uniform commercial code or by any other means in order to repossess a
11 debtor's vehicle without first having given written notice of the possi-
12 ble remote disabling of a vehicle in the method and timetable agreed
13 upon by the consumer and the creditor in the initial contract for
14 services. The notice shall be mailed by registered or certified mail to
15 the address at which the debtor will be residing on the expected date of
16 the remote disabling of the vehicle. The notice shall be postmarked no
17 later than ten days prior to the date on which the principal creditor or
18 his agent obtains the right to remotely disable the vehicle; or

19 11. If such principal creditor or agent sends more than fifty informa-
20 tion subpoenas per month, fail to keep complete records concerning all
21 information subpoenas sent by such principal creditor or agent. Such
22 records shall be maintained for five years. Contemporaneous records
23 shall be kept that set forth with specificity the grounds for such prin-
24 cipal creditor or agent's reasonable belief, which must be certified and
25 accompany each information subpoena pursuant to rule fifty-two hundred
26 twenty-four of the civil practice law and rules, that the party receiv-
27 ing the subpoena has in its possession information about the debtor that

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

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1 will assist the creditor in collecting his or her judgement. In addition
2 to any other penalty that ~~may~~ may be imposed, failure to maintain
3 records in accordance with this subdivision shall subject such principal
4 creditor or agent to a civil penalty of not more than fifty dollars per
5 subpoena, up to a maximum of five thousand dollars per violation, in an
6 action brought by the attorney general~~[-]~~ ; or
7 § 3. This act shall take effect immediately.