STATE OF NEW YORK

S. 6742 A. 6869

2023-2024 Regular Sessions

SENATE - ASSEMBLY

May 8, 2023

IN SENATE -- Introduced by Sen. THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Banks

IN ASSEMBLY -- Introduced by M. of A. ZEBROWSKI -- read once and referred to the Committee on Banks

AN ACT to amend the financial services law, in relation to the jurisdiction of the department of financial services over the financing of motor vehicles; to amend the vehicle and traffic law, in relation to the licensing of motor vehicle dealer finance managers and requiring certain mandatory disclosures by motor vehicle dealers; and to amend the personal property law, in relation to the right of cancellation

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

Section 1. Subparagraph (B) of paragraph 2 of subsection (a) of section 104 of the financial services law is amended to read as follows:

(B) "Financial product or service" shall also not include the following, when offered or provided by a provider of consumer goods or services: (i) the extension of credit directly to a consumer exclusively for the purpose of enabling that consumer to purchase such consumer good or service directly from the seller, (ii) the collection of debt arising from such credit, or (iii) the sale or conveyance of such debt that is delinquent or otherwise in default. **Provided, however, that the provisions of this subparagraph shall not apply to the sale of motor vehicles. Every sale of a motor vehicle that involves financing, whether originated at a motor vehicle dealer or at a lending institution, shall be deemed to be a "financial product or service" within the jurisdiction of the department.**

§ 2. The opening paragraph of section 205 of the financial services law is designated subsection (a) and a new subsection (b) is added to read as follows:

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

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(b) The superintendent may, in his or her discretion, establish a motor vehicle financing bureau, and to promulgate any and all rules and regulations necessary to regulate motor vehicle financing transactions and motor vehicle dealer financing departments.

§ 3. Paragraphs 6 and 7 of subsection (c) of section 301 of the financial services law are amended and four new paragraphs 8, 9, 10 and 11 are added to read as follows:

(6) providing technical assistance to local governments and not-for-profits in the development of consumer protection measures with respect to financial products and services; [~~and~~]

(7) continuing and expanding the detection, investigation and prevention of insurance fraud[~~.~~]**;**

(8) promulgating rules and regulations for motor vehicle dealer finance departments and finance managers;

(9) establishing educational materials and/or mandated instruction for motor vehicle dealer finance managers applying for licensing pursuant to paragraph d of subdivision three of section four hundred fifteen of the vehicle and traffic law. No such mandate instruction shall exceed sixteen hours during any biennial licensing period;

(10) imposing a licensing and course fee for motor vehicle dealer finance manager applicants pursuant to paragraph d of subdivision three of section four hundred fifteen of the vehicle and traffic law; provided that such fee shall not exceed two hundred dollars for each biennial licensing period; and

(11) establishing and imposing penalties, and license suspensions and revocations for violations by motor vehicle dealers and motor vehicle dealer finance managers.

§ 4. Subdivision 3 of section 415 of the vehicle and traffic law is amended by adding a new paragraph d to read as follows:

d. (i) Every dealer which sells motor vehicles that are financed, or which facilitates in any manner the financing of the purchase of any motor vehicle, shall act as or employ an individual to act as the finance manager for such dealer, and every such manager shall be licensed by the department of financial services.

(ii) Every licensed finance manager shall have completed such course of instruction as shall be established by the department of financial services.

§ 5. The vehicle and traffic law is amended by adding a new section 419-b to read as follows:

§ 419-b. Mandatory disclosures by dealers to purchasers regarding pricing. 1. Every dealer shall clearly and conspicuously post:

a. the total sales price, which shall include any administrative, service or other fees charged by the dealer, exclusive of all taxes and fees for securing a registration or certificate of title, of each motor vehicle offered for sale at the place of business, by means of a sign on the dashboard of each motor vehicle or by means of a sign at the point of display of each motor vehicle; and

b. the total sales price of any add-on product offered for sale by means of a sign at the point of display of each motor vehicle for which such product is available for purchase, or at each location within the dealer's place of business where any such product is offered for sale. Such sign shall inform consumers that the purchase of any add-on product is optional and that the purchase of an add-on product is not required to obtain financing.

If multiple add-on products are grouped together on the same sign each add-on product must be listed separately to the right of the description.

2. Nothing in this section shall prevent a dealer from selling a motor vehicle or an add-on product at a lower sales price than the price posted pursuant to subdivision one of this section.

3. Any person who violates subdivision one of this section or any other applicable rule or regulation shall be subject to a civil penalty of not more than the following:

a. five hundred dollars for the first violation;

b. seven hundred fifty dollars for a second violation committed within one year of the first violation; and

c. one thousand dollars for a third or any subsequent violation committed within one year of the first violation.

4. For the purposes of assessing a civil penalty, all violations committed by the same dealer on the same day shall count as one violation.

§ 6. The vehicle and traffic law is amended by adding a new section 419-c to read as follows:

§ 419-c. Mandatory disclosures by dealers to consumers regarding financing. 1. Every dealer shall disclose to each prospective purchaser of a motor vehicle that such purchaser may obtain financing from the dealer or may obtain a loan from a financial institution.

2. Every dealer shall verify the income and employment information of each prospective purchaser seeking financing from the dealer. A dealer shall not represent that benefits received as supplemental security income or social security disability income shall be a sole sufficient source of income for the purpose of securing consumer motor vehicle financing.

3. Every dealer shall disclose to each prospective purchaser all financing offers received by the dealer, including any mark up in the cost of such motor vehicle. For the purpose of this section, "mark up" shall mean the wholesale annual percentage rate (APR) over which the dealer makes a profit when it negotiates a retail APR with a credit purchaser. No dealer mark up shall exceed two percent for loans with terms of sixty months or less or one and one-half percent for loans with a term over sixty months.

4. Dealers shall disclose to each prospective purchaser whenever a loan has an APR that is higher than the average prime offer rate.

5. The superintendent of financial services shall create a standardized form for financing disclosures.

6. Failure by a dealer to comply with this section may result in revocation or suspension of the dealer's license.

§ 7. The vehicle and traffic law is amended by adding a new section 419-d to read as follows:

§ 419-d. Mandatory disclosures by dealers to the department of financial services. Every dealer shall make annual disclosures to the department of financial services disclosing how many motor vehicle purchasers obtained financing from the dealer and how many motor vehicle purchasers obtained a loan from a financial institution. For each loan financed by the dealer, the dealer shall disclose to the department of financial services the borrower's credit score, motor vehicle monthly payment, estimated income level, employment status, make, model, and value of the motor vehicle purchased, loan amount, and whether there was a co-borrower.

§ 8. Subdivision 3 of section 302 of the personal property law, as added by chapter 633 of the laws of 1956, is amended to read as follows:

3. The seller shall deliver to the buyer, or mail to him **or her** at his **or her** address shown on the contract, a copy of the contract signed by the seller. [~~**Until the seller does so, a**~~] **A** buyer who has not received delivery of the motor vehicle shall have an unconditional right to cancel the contract and to receive immediate refund of all payments made and redelivery of all goods traded-in to the seller on account of or in contemplation of the contract **within forty-eight hours signing the contract or receiving a copy of the contract signed by the seller, whichever is longer**. Any acknowledgment by the buyer of delivery of a copy of the contract shall be printed or written in a size equal to at least ten point bold type and, if contained in the contract, shall also appear directly above the legend required above the buyer's signature by **paragraph (a) of** [~~**sub-division**~~] **subdivision** two [~~**(a)**~~] of this section.

§ 9. This act shall take effect one year after it shall have become a law.