

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

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

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

11 (7) continuing and expanding the detection, investigation and  
12 prevention of insurance fraud[+];

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

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

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

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

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

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

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

38 § 5. The vehicle and traffic law is amended by adding a new section  
39 419-b to read as follows:

40 § 419-b. Mandatory disclosures by dealers to purchasers regarding  
41 pricing. 1. Every dealer shall clearly and conspicuously post:

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

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

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

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

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

10 a. five hundred dollars for the first violation;

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

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

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

18 § 6. The vehicle and traffic law is amended by adding a new section  
19 419-c to read as follows:

20 § 419-c. Mandatory disclosures by dealers to consumers regarding  
21 financing. 1. Every dealer shall disclose to each prospective purchaser  
22 of a motor vehicle that such purchaser may obtain financing from the  
23 dealer or may obtain a loan from a financial institution.

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

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

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

40 5. The superintendent of financial services shall create a standard-  
41 ized form for financing disclosures.

42 6. Failure by a dealer to comply with this section may result in revo-  
43 cation or suspension of the dealer's license.

44 § 7. The vehicle and traffic law is amended by adding a new section  
45 419-d to read as follows:

46 § 419-d. Mandatory disclosures by dealers to the department of finan-  
47 cial services. Every dealer shall make annual disclosures to the depart-  
48 ment of financial services disclosing how many motor vehicle purchasers  
49 obtained financing from the dealer and how many motor vehicle purchasers  
50 obtained a loan from a financial institution. For each loan financed by  
51 the dealer, the dealer shall disclose to the department of financial  
52 services the borrower's credit score, motor vehicle monthly payment,  
53 estimated income level, employment status, make, model, and value of the  
54 motor vehicle purchased, loan amount, and whether there was a co-borrow-  
55 er.

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

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

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