

STATE OF NEW YORK

4981

2025-2026 Regular Sessions

IN SENATE

February 14, 2025

Introduced by Sen. SCARCELLA-SPANTON -- read twice and ordered printed,
and when printed to be committed to the Committee on Consumer
Protection

AN ACT to amend the general business law and the vehicle and traffic
law, in relation to designating new automotive broker businesses

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

1 Section 1. Subdivision 1 of section 736 of the general business law,
2 as amended by chapter 28 of the laws of 2018, is amended to read as
3 follows:
4 1. "Automobile broker business" means any person who, for a fee,
5 commission or other valuable consideration, regardless of whether such
6 fee, commission, or consideration is paid directly by a consumer, offers
7 to provide, provides, or represents that [~~he or she~~] such automobile
8 broker business will provide a service of purchasing, arranging, assist-
9 ing, facilitating or effecting the purchase or lease of an automobile as
10 agent, broker, or intermediary for a consumer. "Automobile broker busi-
11 ness" does not include any person registered as a new motor vehicle
12 dealer or qualified dealer pursuant to article sixteen of the vehicle
13 and traffic law, any person registered under section four hundred
14 fifteen-a of the vehicle and traffic law, only when operating under
15 activity covered by such registration, an automobile auctioneer, only
16 when operating in the manner described in section twenty-three of this
17 chapter, nor any bona fide employee of a registered new motor vehicle
18 dealer or qualified dealer while acting for such new motor vehicle deal-
19 er or qualified dealer, or any person who sells, offers for sale or
20 lease or acts as agent, broker or intermediary in effecting the purchase
21 or lease of three or fewer automobiles in any calendar year, any
22 national service which aggregates information for consumers, but does
23 not otherwise have contact with consumers, [~~or~~] any motor vehicle fran-

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

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1 chisor, manufacturer, or distributor, distributor branch or factory
2 branch registered under article sixteen of the vehicle and traffic law.

3 § 2. Subdivision 1 of section 736 of the general business law, as
4 amended by chapter 610 of the laws of 2024, is amended to read as
5 follows:

6 1. "Automobile broker business" means any person who, for a fee,
7 commission or other valuable consideration, regardless of whether such
8 fee, commission, or consideration is paid directly by a consumer, offers
9 to provide, provides, or represents that such automobile broker business
10 will provide a service of purchasing, arranging, assisting, facilitating
11 or effecting the purchase or lease of an automobile as agent, broker, or
12 intermediary for a consumer. "Automobile broker business" does not
13 include any person registered as a new motor vehicle dealer or qualified
14 dealer pursuant to article sixteen of the vehicle and traffic law, only
15 when operating in a manner pursuant to such registration under article
16 sixteen of the vehicle and traffic law, any person registered under
17 section four hundred fifteen-a of the vehicle and traffic law, only when
18 operating in a manner described in section four hundred fifteen-a of the
19 vehicle and traffic law, only when operating under activity covered by
20 such registration, an automobile auctioneer, only when operating in the
21 manner described in section twenty-three of this chapter, nor any bona
22 fide employee of a registered new motor vehicle dealer or qualified
23 dealer while acting for such new motor vehicle dealer or qualified deal-
24 er, or any person who sells, offers for sale or lease or acts as agent,
25 broker or intermediary in effecting the purchase or lease of three or
26 fewer automobiles in any calendar year, any national service which
27 aggregates information for consumers, but does not otherwise have
28 contact with consumers, or any motor vehicle franchisor, manufacturer,
29 distributor, distributor branch or factory branch registered under arti-
30 cle sixteen of the vehicle and traffic law.

31 § 3. Section 736-a of the general business law, as added by chapter
32 477 of the laws of 2017, is amended to read as follows:

33 § 736-a. Registration required. 1. (a) No person shall engage in busi-
34 ness as an automobile broker business, as defined in section seven
35 hundred thirty-six of this article, without first having been issued a
36 certificate of registration for an automobile broker business pursuant
37 to paragraph c of subdivision seven of section four hundred fifteen of
38 the vehicle and traffic law. A certificate of registration for an auto-
39 mobile broker business shall be valid for a period of two years.

40 (b) No automobile broker business shall represent or accept payment
41 from, either directly or indirectly, a franchisee, dealer, franchisor,
42 manufacturer, distributor, distributor branch and/or factory branch, as
43 such terms are defined in sections four hundred fifteen and four hundred
44 sixty-two of the vehicle and traffic law.

45 (c) No automobile broker business shall perform any services involving
46 the purchasing, arranging, assisting, facilitating or effecting the
47 purchase or lease of an automobile as agent, broker, or intermediary for
48 a consumer, unless done pursuant to a contract that complies with the
49 provisions of section seven hundred thirty-eight of this article.

50 2. A certificate of registration for an automobile broker business
51 shall not permit the registrant to display for sale or lease any new or
52 used motor vehicles without registration as a dealer under section four
53 hundred fifteen of the vehicle and traffic law.

54 3. Any person that sells or leases five or more vehicles in a calendar
55 year to or through one or more automobile broker business shall be
56 deemed to be dealing in motor vehicles as that term is used in paragraph

1 a of subdivision one of section four hundred fifteen of the vehicle and
2 traffic law.

3 4. The commissioner of motor vehicles shall adopt rules and regu-
4 lations necessary to effectuate the provisions of this section, includ-
5 ing regulations that require the disclosure of the name, address, and
6 registration number of an automobile broker business that provided the
7 service of arranging, assisting, facilitating or effecting the purchase
8 or lease of any new motor vehicle, and the fee collected by the broker
9 from the consumer for providing such service. Such rules and regulations
10 shall require that such information of the automobile broker business
11 and its fee for service be printed on any invoice, bill of sale, or
12 buyer's order, and on any application for registration or title submit-
13 ted by any dealer to the department of motor vehicles on behalf of the
14 consumer related to such purchased or leased motor vehicle.

15 § 4. The opening paragraph and paragraph (e) of subdivision 1 of
16 section 738 of the general business law, as amended by chapter 28 of the
17 laws of 2018, are amended to read as follows:

18 Every contract between a consumer and an automobile broker business
19 for the purchase of [~~an automobile~~] a motor vehicle, other than a new
20 motor vehicle, shall be in writing, shall be dated, shall contain the
21 street address of the automobile broker business and the consumer and
22 shall be signed by the consumer and by the automobile broker business.
23 Every contract shall comply with the requirements set forth in this
24 section and contain the following:

25 (e) A description of any other services and an itemization of the
26 charges for each. Such description shall include disclosure of the auto-
27 mobile dealer from which the automobile was purchased, as well as all
28 fees, commissions or other valuable [~~considerations paid by an automo-~~
29 ~~bile dealer~~] consideration owed by the consumer to the automobile broker
30 business for selling, arranging, assisting or effecting the sale of an
31 automobile as agent, broker, or intermediary between the consumer and
32 the automobile dealer.

33 § 5. The opening paragraph and paragraph (g) of subdivision 1 of
34 section 738 of the general business law, as amended by chapter 610 of
35 the laws of 2024, are amended to read as follows:

36 Prior to the purchase or lease of [~~an automobile~~] a motor vehicle,
37 other than a new motor vehicle, the consumer and the automobile broker
38 business shall enter into a contract. Every contract between a consumer
39 and an automobile broker business for the purchase or lease of [~~an auto-~~
40 ~~mobile~~] a motor vehicle, other than a new motor vehicle, shall be in
41 writing, shall be dated, shall contain the street address of the place
42 of business of the automobile broker business, the registration number
43 issued to the automobile broker business pursuant to section four
44 hundred fifteen of the vehicle and traffic law and the name and address
45 of the consumer and shall be signed by the consumer and by the automo-
46 bile broker business. Every contract shall comply with the requirements
47 set forth in this section and contain the following:

48 (g) A description of any other services and an itemization of the
49 charges for each. Such description shall include disclosure of the auto-
50 mobile dealer from which the automobile was purchased or leased, as well
51 as all fees, commissions or other valuable [~~considerations paid by an~~
52 ~~automobile dealer~~] consideration owed by the consumer to the automobile
53 broker business for selling, arranging, assisting or effecting the sale
54 or lease of an automobile as agent, broker, or intermediary between the
55 consumer and the automobile dealer.

1 § 6. Subdivisions 3 and 4 of section 738 of the general business law,
2 subdivision 3 as amended by chapter 477 of the laws of 2017 and subdivi-
3 sion 4 as added by chapter 28 of the laws of 2018, are amended to read
4 as follows:

5 3. Every contract between a consumer and an automobile broker business
6 for the service of arranging, assisting, facilitating or effecting the
7 purchase or lease of a new motor vehicle shall be in writing, shall be
8 dated, shall contain the street address of the automobile broker busi-
9 ness and the consumer, and shall be signed by the consumer and by the
10 automobile broker business. Every such contract shall comply with the
11 requirements set forth in this section and contain the following
12 provisions, which shall be printed in at least twelve-point bold type
13 and shall not be negated or superseded by any additional provision:

14 (a) A title, across the top of the document in at least sixteen-point
15 bold type, of "Contract for Automobile Brokering Services for a New
16 Motor Vehicle".

17 (b) A statement of whether a solicited new motor vehicle is or will be
18 manufactured in accordance with United States specifications and is or
19 will be certified by the manufacturer as such if the new motor vehicle
20 is not or will not be manufactured in accordance with United States
21 safety and environmental specifications, and the consumer has retained
22 the automobile broker business to arrange for the modification of the
23 new motor vehicle to meet such specifications, the name and street
24 address of the modification facility and a statement in immediate prox-
25 imity to such information that the automobile broker business assumes
26 full financial responsibility that the new motor vehicle will be proper-
27 ly modified to meet all United States safety and environmental specifi-
28 cations.

29 (c) A statement that the consumer may cancel the contract for automo-
30 bile brokering services for a new motor vehicle for any reason within
31 three days of the execution of such contract and that the consumer has
32 the right to a full refund within ten business days following receipt of
33 the notice of cancellation.

34 (d) A statement that, if the requested new motor vehicle cannot be
35 procured by the automobile broker business within thirty days following
36 the date of execution of the contract for automobile brokering services
37 for a new motor vehicle, the consumer has the right to cancel the
38 contract and to receive a full refund within ten business days following
39 receipt of the request for a refund, unless the delay in delivery is
40 attributable to the consumer.

41 (e) A statement that the consumer shall be provided with the contents
42 of each bid received by the automobile broker business in response to
43 its solicitation on behalf of such consumer.

44 (f) The amount of the fee to be paid by the consumer to the automobile
45 broker business for the service of arranging, assisting, facilitating or
46 effecting the purchase or lease of a new motor vehicle.

47 (g) A statement that the single fee authorized by such contract for
48 automobile brokering services for a new motor vehicle is inclusive of
49 all charges incident to the purchasing, arranging, assisting, facilitat-
50 ing or effecting the purchase or lease of such new motor vehicle by the
51 automobile broker business as agent, broker, or intermediary and that no
52 other charge or expense whatsoever shall be taken, received, reserved or
53 contracted for by the automobile broker business for such services.

54 4. The contract for automobile brokering services for a new motor
55 vehicle shall be accompanied by a completed form in duplicate, captioned
56 "Notice of Cancellation" which shall be attached to the contract and

1 easily detachable, and which shall contain in at least twelve-point type
 2 the following:

3 "Notice of Cancellation

4 You may cancel this Contract for Automobile Brokering Services for a
 5 New Motor Vehicle, without any penalty or obligation, within three days
 6 from the date that a copy of an executed contract is received by you.
 7 You may also cancel this contract, without penalty or obligation, if the
 8 automobile broker business does not produce a bid meeting your specifi-
 9 cations within thirty days of the date of execution of this contract.

10 To cancel this contract, mail or deliver a signed and dated copy of
 11 this cancellation notice, or any other written notice, to (name of auto-
 12 mobile broker business) at (address of automobile broker business) not
 13 later than midnight of the third day following your receipt of a signed
 14 contract.

15 I hereby cancel this transaction.

16 _____ (signature of consumer)

17 _____ (date)"

18 5. An automobile broker business shall deliver to the consumer or mail
 19 to [~~him or her~~] such consumer at the address shown on [~~the~~] any contract
 20 required by this section, an executed copy thereof.

21 [~~4.-An~~] 6. In addition to the brokering services agreement required by
 22 subdivision one of this section, an automobile broker business in any
 23 transaction involving the lease of a vehicle shall provide the retail
 24 lessee with a retail lease agreement as provided for in section three
 25 hundred thirty-seven of the personal property law. [~~The automobile~~
 26 ~~broker shall provide a written disclosure of the amount of any fee,~~
 27 ~~commission or other consideration paid or expected to be paid by the~~
 28 ~~lessor to the automobile broker business in connection with a trans-~~
 29 ~~action involving the lease of a vehicle. Such disclosure shall be signed~~
 30 ~~by the retail lessee. The automobile broker business shall provide the~~
 31 ~~retail lessee with a signed copy of such disclosure together with the~~
 32 ~~retail lease agreement referenced herein.] Nothing in this section shall
 33 be construed to permit the delivery of an executed retail lease agree-
 34 ment to a new motor vehicle by a person other than the prospective
 35 lessee.~~

36 § 7. Subdivision 1 of section 740-a of the general business law, as
 37 amended by chapter 477 of the laws of 2017, is amended to read as
 38 follows:

39 1. Automobile broker businesses shall obtain and continue in effect a
 40 surety bond in an amount of [~~one~~] two hundred fifty thousand dollars
 41 executed by a surety company authorized to transact business in the
 42 state by the department of financial services of the state or its
 43 successor. The bonds shall be approved as to form by the secretary of
 44 state and shall be conditioned on the automobile broker business'
 45 payment of all valid bank drafts, including checks, drawn for the
 46 purchase of motor vehicles and safekeeping of all customer deposits
 47 related to the sale of a motor vehicle between the time of receipt of
 48 such customer deposit and the transfer of good title to the vehicle to
 49 the customer.

50 § 8. Section 741 of the general business law, as added by chapter 616
 51 of the laws of 1988, is amended to read as follows:

52 § 741. Deceptive acts and frauds prohibited. 1. It is hereby declared
 53 to be a deceptive trade practice and unlawful for an automobile broker
 54 business to misrepresent directly or indirectly in its advertising,
 55 promotional materials, sales presentation, or in any manner:

1 ~~[1.]~~ (a) The nature of the services to be performed and that a third
2 party will be paying for any such services;

3 ~~[2.]~~ (b) The time within which the services will be performed;

4 ~~[3.]~~ (c) The cost of the services to be performed; ~~and~~

5 ~~4.]~~ (d) The ability of the automobile broker business to perform the
6 services; and

7 (e) That the automobile broker business is affiliated with any new
8 motor vehicle manufacturer, distributor, distributor branch and/or
9 factory branch including the use of any trademarks or copyrighted mate-
10 rial without the express, written consent of the owner of such material.

11 2. It shall be a fraudulent business practice for an automobile broker
12 business to refuse to disclose its registration number, issued either by
13 the state or a municipality, to a motor vehicle dealer. Furthermore, it
14 shall be a fraudulent business practice for an automobile broker busi-
15 ness to make any misrepresentation to a motor vehicle dealer or new
16 motor vehicle dealer regarding the eligibility of any consumer for any
17 discounts, reductions or any benefit programs regarding the sale or
18 lease of a motor vehicle.

19 3. It shall be a fraudulent business practice for an automobile broker
20 business to advertise new motor vehicles, through any print, electronic
21 or digital signal or medium, written or verbal statement or word,
22 design, device, sound or any combination of any such method or medium,
23 without disclosing that it is not a licensed motor vehicle dealer and is
24 not an authorized satellite location for any particular licensed motor
25 vehicle dealer.

26 4. It shall be a fraudulent business practice for an automobile broker
27 business to advertise through any print, electronic or digital signal or
28 medium, written or verbal statement or word, design, device, sound or
29 any combination of any such method or medium, that would lead a reason-
30 able consumer to conclude that the automobile broker business is a
31 licensed new motor vehicle dealer.

32 5. It shall be a fraudulent business practice for an automobile broker
33 business to maintain any website without including a text box with the
34 following statement in no less than eighteen-point boldface type on the
35 splash page: "(Broker name) is not a licensed new motor vehicle dealer
36 in the State of New York, nor is it an authorized affiliate of any
37 licensed new motor vehicle dealer in the State of New York".

38 6. It shall be a fraudulent business practice for an automobile broker
39 business to include any pricing or financing offers or promotions in any
40 advertisement, including any print, electronic or digital signal or
41 medium, written or verbal statement or word, design, device, sound or
42 any combination of any such method or medium.

43 7. It shall be a fraudulent business practice for an automobile broker
44 business to gain access to or use, or represent or advertise that it may
45 access or use, a portal, computer, or internet account owned by or
46 reserved for a new motor vehicle dealer to access or use one or more
47 finance sources that provide automotive-related loans, or purchases
48 retail installment contracts or lease contracts for motor vehicles.

49 § 9. Section 741-b of the general business law, as added by chapter 28
50 of the laws of 2018, is amended to read as follows:

51 § 741-b. ~~[Disclosure]~~ Disclosures required by brokers. 1. An automo-
52 bile broker business shall generate and provide a disclosure at the time
53 such automobile broker business takes an order to search for a leased or
54 purchased vehicle meeting the prospective buyer or lessee's specifica-
55 tions. Such disclosure shall provide the amount of any fees, commissions
56 or other valuable consideration the automobile broker business expects

1 to receive, if known, from [~~a dealer, lessor or~~] any [~~other~~] person or
2 entity for any assistance the automobile broker business provides in
3 effecting the purchase or lease transaction. If the amount of any such
4 fees, commissions or other valuable consideration the automobile broker
5 business expects to receive is unknown at the time of the required
6 disclosure, the automobile broker business shall disclose[~~+(a)~~] whether
7 it has a contract with any dealer, lessor or any other person or entity
8 for the provision of assistance in effecting a purchase or lease trans-
9 action[~~+, and (b) whether the automobile broker business may be compen-~~
10 ~~sated by the dealer, lessor or any other person or entity for any~~
11 ~~assistance in effecting such lease transaction~~]. Nothing in this subdi-
12 vision shall be construed to permit the payment of any fees, commissions
13 or other valuable consideration to an automobile broker business by any
14 motor vehicle dealer.

15 2. An automobile broker business shall generate and provide an addi-
16 tional disclosure to the consumer at the time such automobile broker
17 business takes an order to search for a motor vehicle meeting the
18 prospective buyer or lessee's specifications. Such additional disclosure
19 shall state the following:

20 (a) that the automobile broker business shall make a bona fide attempt
21 to obtain a bid, quote or offer on behalf of the prospective buyer or
22 lessee for a motor vehicle meeting the prospective buyer or lessee's
23 specifications;

24 (b) that the automobile broker business shall provide to the consumer
25 all contents of each bid made by a motor vehicle dealer in response to
26 the solicitation of the automobile broker business; and

27 (c) that the automobile broker business has a duty to act for the
28 benefit of the prospective buyer or lessee.

29 3. Each disclosure required by this section to be made to a consumer
30 shall be acknowledged in writing by each consumer.

31 4. At the time an automobile broker business solicits a bid from a new
32 motor vehicle dealer, such broker shall provide a disclosure to each
33 solicited dealer as to the provisions of section seven hundred thirty-
34 nine of this article.

35 5. Prior to the execution of any purchase contract or lease for an
36 automobile, an automobile broker business shall provide each consumer
37 with all disclosures required to be made by a dealer.

38 § 10. Section 741-b of the general business law, as amended by chapter
39 610 of the laws of 2024, is amended to read as follows:

40 § 741-b. [~~Disclosure~~] Disclosures required by brokers. 1. An automo-
41 bile broker business shall generate and provide a disclosure at the time
42 such automobile broker business takes an order to search for a leased or
43 purchased vehicle meeting the prospective buyer or lessee's specifica-
44 tions. Such disclosure shall provide the amount of any fees, commissions
45 or other valuable consideration the automobile broker business expects
46 to receive, if known, from [~~a dealer, lessor or~~] any [~~other~~] person or
47 entity for any assistance the automobile broker business provides in
48 effecting the lease or purchase transaction. If the amount of any such
49 fees, commissions or other valuable consideration the automobile broker
50 business expects to receive is unknown at the time of the required
51 disclosure, the automobile broker business shall disclose[~~+(a)~~] wheth-
52 er it has a contract with any dealer, lessor or any other person or
53 entity for the provision of assistance in effecting a lease or purchase
54 transaction[~~+, (b) that the automobile broker business shall be compen-~~
55 ~~sated by the dealer, lessor or any other person or entity for any~~
56 ~~assistance in effecting such lease transaction, and (c) that the amount~~

~~of any such fees, commissions or other valuable consideration the automobile broker business receives, whether from the dealer or the buyer of the automobile, shall be disclosed on the executed lease or purchase contract or finance agreement pursuant to section three hundred two or three hundred thirty-seven of the personal property law].~~ Nothing in this subdivision shall be construed to permit the payment of any fees, commissions or other valuable consideration to an automobile broker business by any motor vehicle dealer.

2. An automobile broker business shall generate and provide an additional disclosure to the consumer at the time such automobile broker business takes an order to search for a motor vehicle meeting the prospective buyer or lessee's specifications. Such additional disclosure shall state the following:

(a) that the automobile broker business shall make a bona fide attempt to obtain a bid, quote or offer on behalf of the prospective buyer or lessee for a motor vehicle meeting the prospective buyer or lessee's specifications;

(b) that the automobile broker business shall provide to the consumer all contents of each bid made by a motor vehicle dealer in response to the solicitation of the automobile broker business; and

(c) that the automobile broker business has a duty to act for the benefit of the prospective buyer or lessee.

3. Each disclosure required by this section to be made to a consumer shall be acknowledged in writing by each consumer.

4. At the time an automobile broker business solicits a bid from a new motor vehicle dealer, such broker shall provide a disclosure to each solicited dealer as to the provisions of section seven hundred thirty-nine of this article.

5. Prior to the execution of any purchase contract or lease for an automobile, an automobile broker business shall provide each consumer with all disclosures required to be made by a dealer.

§ 11. The general business law is amended by adding a new section 741-e to read as follows:

§ 741-e. Private information security. 1. An automobile broker business shall report annually to the department of motor vehicles its compliance with sections three hundred ninety-nine-cc as added by chapter 655 of the laws of 2005, three hundred ninety-nine-dd as added by chapter 487 of the laws of 2006, three hundred ninety-nine-ddd, three hundred ninety-nine-h, three hundred ninety-nine-oo, three hundred ninety-nine-p, three hundred ninety-nine-pp, and eight hundred ninety-nine-bb of this chapter. For the purposes of subdivision two of section eight hundred ninety-nine-bb of this chapter, an automobile broker business shall not be considered a small business as that term is defined in that section and shall instead be subject to reasonable security requirements that are equivalent to those applicable to new motor vehicle dealers.

2. In addition to the requirements of subdivision one of this section, an automobile broker business shall:

(a) keep and maintain all consumer records containing private information in a safe place that is not accessible to persons not employed by the automobile broker business, including by keeping and maintaining a clear and permanent physical barrier from other businesses that share or neighbor its place of business;

(b) have a mailbox at such place of business dedicated only to the automobile broker business; and

(c) have a method of locking security items, including a locking cabinet or safe.

1 3. No transaction for the purchase or lease of a new motor vehicle
2 that was arranged, assisted, facilitated or effected by an automobile
3 broker business shall be valid unless the consumer personally delivers
4 an executed purchase contract or lease, and, where applicable, financing
5 agreement, to the place of business of the dealer from which such vehi-
6 cle will be purchased or leased and such dealer verifies the identity of
7 such consumer.

8 § 12. Section 743 of the general business law, as amended by chapter
9 372 of the laws of 2016, is amended to read as follows:

10 § 743. Enforcement [~~by~~]. 1. By attorney general. In addition to the
11 other remedies provided, whenever there shall be a violation of this
12 article, application may be made by the attorney general in the name of
13 the people of the state of New York to a court or justice having juris-
14 diction by a special proceeding to issue an injunction, and upon notice
15 to the defendant of not less than five days, to enjoin and restrain the
16 continuance of such violations; and if it shall appear to the satisfac-
17 tion of the court or justice that the defendant has, in fact, violated
18 this article, an injunction may be issued by such court or justice,
19 enjoining and restraining any further violation, without requiring proof
20 that any person has, in fact, been injured or damaged thereby. In any
21 such proceeding, the court may make allowances to the attorney general
22 as provided in paragraph six of subdivision (a) of section eighty-three
23 hundred three of the civil practice law and rules, and direct restitu-
24 tion. Whenever the court shall determine that a violation of this arti-
25 cle has occurred, the court shall impose a civil penalty of not less
26 than [~~one~~] four thousand dollars and not more than [~~three~~] ten thousand
27 dollars for each violation. In connection with any such proposed appli-
28 cation, the attorney general is authorized to take proof and make a
29 determination of the relevant facts and to issue subpoenas in accordance
30 with the civil practice law and rules.

31 2. By local authorities. (a) Municipalities may, pursuant to local
32 law, act upon the business activity that is the subject of this article,
33 provided that no local government may diminish the protections or
34 requirements of this article or prevent enforcement of its provisions by
35 appropriate state officials.

36 (b) The provisions of this article may be enforced in the same manner
37 as set forth in subdivision one of this section by the director of a
38 municipal consumer affairs office or a business integrity commission, or
39 by the town attorney, city corporation counsel, or other lawfully desig-
40 nated enforcement officer of a municipality or local government, and all
41 monies collected thereunder shall be retained by such municipality or
42 local government, provided that no local government may prevent enforce-
43 ment of its provisions by appropriate state officials.

44 3. By private party. Any persons that are or may be injured by any
45 violation of this article may bring an action in such person's own name
46 against an automobile broker business to enjoin such unlawful act or
47 practice, an action to recover such person's damages and statutory
48 damages of not less than four thousand dollars and not more than ten
49 thousand dollars for each violation, or both such actions. Injury shall
50 include, but not be limited to, lost sales on account of deceptive or
51 unfair advertising. Damages shall include, but not be limited to, lost
52 sales and the value of incentive payments, bonuses, holdbacks or similar
53 payments that would have been realized but for the actions of a person
54 who knowingly aided the violation of the provisions of this article.
55 Nothing in this section shall require a franchisor, manufacturer, or
56 distributor to grant a new motor vehicle dealer a benefit under an

1 incentive, bonus, holdback or similar payment that the new motor vehicle
2 dealer did not earn or for which the new motor vehicle dealer did not
3 qualify. Such actions may be brought regardless of whether or not the
4 underlying violation is consumer-oriented or has a public impact. Given
5 the remedial nature of this subdivision, standing to bring an action
6 under this subdivision shall be liberally construed and shall be avail-
7 able to the fullest extent otherwise permitted by law. The court may, in
8 its discretion, award treble damages if the court finds the defendant
9 willfully or knowingly violated this article. The court shall award
10 reasonable attorney's fees and costs to a prevailing plaintiff.

11 § 13. Section 743 of the general business law, as amended by chapter
12 610 of the laws of 2024, is amended to read as follows:

13 § 743. Enforcement by attorney general. 1. In addition to the other
14 remedies provided, whenever there shall be a violation of this article,
15 application may be made by the attorney general in the name of the
16 people of the state of New York to a court or justice having jurisdic-
17 tion by a special proceeding to issue an injunction, and upon notice to
18 the defendant of not less than five days, to enjoin and restrain the
19 continuance of such violations; and if it shall appear to the satisfac-
20 tion of the court or justice that the defendant has, in fact, violated
21 this article, an injunction may be issued by such court or justice,
22 enjoining and restraining any further violation, without requiring proof
23 that any person has, in fact, been injured or damaged thereby. In any
24 such proceeding, the court may make allowances to the attorney general
25 as provided in paragraph six of subdivision (a) of section eighty-three
26 hundred three of the civil practice law and rules, and direct restitu-
27 tion. Whenever the court shall determine that a violation of this arti-
28 cle has occurred, the court shall impose a civil penalty of not less
29 than one thousand dollars and not more than three thousand dollars for
30 each violation. In connection with any such proposed application, the
31 attorney general is authorized to take proof and make a determination of
32 the relevant facts and to issue subpoenas in accordance with the civil
33 practice law and rules.

34 2. By local authorities. (a) Municipalities may, pursuant to local
35 law, act upon the business activity that is the subject of this article,
36 provided that no local government may diminish the protections or
37 requirements of this article or prevent enforcement of its provisions by
38 appropriate state officials.

39 (b) The provisions of this article may be enforced [~~concurrently~~] in
40 the same manner as set forth in subdivision one of this section by a
41 municipal consumer affairs office or a business integrity commission, or
42 by the town attorney, city corporation counsel, or other lawfully desig-
43 nated enforcement officer of a municipality or local government, and all
44 monies collected thereunder shall be retained by such municipality or
45 local government, provided that no local government may prevent enforce-
46 ment of its provisions by appropriate state officials.

47 3. By private party. Any persons that are or may be injured by any
48 violation of this article may bring an action in such person's own name
49 against an automobile broker business to enjoin such unlawful act or
50 practice, an action to recover such person's damages and statutory
51 damages of not less than four thousand dollars and not more than ten
52 thousand dollars for each violation, or both such actions. Injury shall
53 include, but not be limited to, lost sales on account of deceptive or
54 unfair advertising. Damages shall include, but not be limited to, lost
55 sales and the value of incentive payments, bonuses, holdbacks or similar
56 payments that would have been realized but for the actions of a person

1 who knowingly aided the violation of the provisions of this article.
2 Nothing in this section shall require a franchisor, manufacturer, or
3 distributor to grant a new motor vehicle dealer a benefit under an
4 incentive, bonus, holdback or similar payment that the new motor vehicle
5 dealer did not earn or for which the new motor vehicle dealer did not
6 qualify. Such actions may be brought regardless of whether or not the
7 underlying violation is consumer-oriented or has a public impact. Given
8 the remedial nature of this subdivision, standing to bring an action
9 under this subdivision shall be liberally construed and shall be avail-
10 able to the fullest extent otherwise permitted by law. The court may, in
11 its discretion, award treble damages if the court finds the defendant
12 willfully or knowingly violated this article. The court shall award
13 reasonable attorney's fees and costs to a prevailing plaintiff.

14 § 14. Paragraph a of subdivision 1 of section 415 of the vehicle and
15 traffic law, as amended by chapter 554 of the laws of 2015, is amended
16 to read as follows:

17 a. "Dealer" means a person engaged in the business of buying, selling
18 or dealing in motor vehicles, motorcycles or trailers, other than mobile
19 homes or manufactured homes, at retail or wholesale; except, however,
20 trailers with an unladen weight of less than one thousand pounds. For
21 the purposes of this section, a "mobile home" or "manufactured home"
22 means a mobile home or manufactured home as defined in section one
23 hundred twenty-two-c of this chapter. Any person who sells, or offers
24 for sale or lease more than five motor vehicles, motorcycles or trailers
25 in any calendar year or who displays or permits the display of three or
26 more motor vehicles, motorcycles or trailers for sale at any one time or
27 within any one calendar month upon premises owned or controlled by [~~him~~
28 ~~or her~~] such person, if such vehicles were purchased, acquired or other-
29 wise obtained by such person for the purpose of resale, will be regarded
30 as a dealer. For the purposes of this section, "offers for sale or
31 lease" shall include, but not be limited to, the act of drawing the
32 public's attention to, or the presentation or display of any motor vehi-
33 cle, including the posting of images of any such vehicle, together with
34 a suggested retail price, lease cost or financing rate for such vehicle
35 and an offer to provide, the provision of, or a representation that such
36 person may provide a service of arranging, assisting, facilitating or
37 effecting the lease of such new motor vehicle, except this meaning shall
38 not apply to any activity of a cooperative or other advertising program
39 or fund as described in any franchise, as such term is defined by subdi-
40 vision six of section four hundred sixty-two of this title, or the
41 display of aggregated information and images by a national service that
42 otherwise does not have contact with consumers. Except as otherwise
43 provided in subdivisions three, five, six-b, and seven of this section,
44 the term "dealer" shall include a "new motor vehicle dealer" as defined
45 by paragraph f of this subdivision and a "qualified dealer" as defined
46 in paragraph g of this subdivision.

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

49 d. It is hereby declared to be a fraudulent practice, for the purposes
50 of paragraph c of subdivision nine of this section, for a dealer to use
51 any subsidiary corporation, affiliated corporation, or any other
52 controlled corporation, partnership, association, business or person to
53 accomplish what would otherwise be unlawful conduct under this article
54 or article thirty-five-B of the general business law, including request-
55 ing that an automobile broker business represent such dealer in generat-

1 ing a sale or lease or making payment to, either directly or indirectly,
2 an automobile broker business.

3 § 16. Subdivision 3-a and paragraph b-3 of subdivision 5 of section
4 415 of the vehicle and traffic law, as added by chapter 477 of the laws
5 of 2017, are amended to read as follows:

6 3-a. Automobile broker business registration. a. No person shall
7 engage in the automobile broker business or represent or advertise that
8 [~~he or she~~] such person is engaged or intends to engage in the automo-
9 bile broker business in this state, unless there shall have been issued
10 to [~~him or her~~] such person a certificate of registration as an automo-
11 bile broker business by the commissioner under this section pursuant to
12 an application for registration submitted pursuant to subdivision five
13 of this section. Such registration shall be effective for a period not
14 exceeding two years. At the discretion of the commissioner a registra-
15 tion may be renewed for a period of up to two years upon application
16 therefor, in such form as the commissioner may prescribe, and a showing
17 of proof of satisfaction of the requirements of section seven hundred
18 forty-a of the general business law, and upon payment of the fee as
19 herein prescribed.

20 b. The commissioner shall not issue or renew a certificate of regis-
21 tration authorized by this subdivision to any dealer, franchisee, fran-
22 chisor, manufacturer, distributor, distributor branch or factory branch,
23 as such terms are defined in section four hundred sixty-two of this
24 title, or to any subsidiary, affiliate, employee or controlled person or
25 entity thereof.

26 c. As a condition of any certificate of registration issued or renewed
27 pursuant to this subdivision, an automobile broker business shall have,
28 and continuously maintain, a place of business in this state for which
29 it shall keep and maintain evidence that all necessary approvals,
30 licenses and/or permits have been obtained from all local governing
31 bodies to operate such place of business with customer or client traf-
32 fic. No more than one automobile broker business shall operate at any
33 single location and no automobile broker business shall operate at the
34 same location as a new motor vehicle dealer.

35 d. Every registered automobile broker business shall prominently and
36 conspicuously post, in such a manner that it is likely to be noticeable
37 to anyone entering its premises, its official business certificate of
38 registration and a sign, which sign shall clearly state:

39 "(Name of registered automobile broker) is not a franchised new motor
40 vehicle dealer. We are not authorized or approved by a manufacturer or
41 distributor to sell a new motor vehicle or perform recall or original
42 factory warranty work."

43 e. As a condition of any certificate of registration issued or renewed
44 pursuant to this subdivision, and before performing any broker services
45 related to a new motor vehicle, an automobile broker business shall
46 attest in writing to each consumer, that the broker: (i) is not a fran-
47 chised new motor vehicle dealer; and (ii) is not authorized or approved
48 by a manufacturer or distributor to sell a new motor vehicle or perform
49 recall or original factory warranty work.

50 f. It is hereby declared to be a fraudulent practice, for the purposes
51 of paragraph c of subdivision nine of this section, for an automobile
52 broker business to draw the public's attention to, or present or display
53 any new motor vehicle, including by posting images of any such vehicle,
54 together with a suggested retail price, lease cost or financing rate for
55 such vehicle and an offer to provide, the provision of, or a represen-
56 tation that such person may provide a service of arranging, assisting,

1 facilitating or effecting the purchase or lease of such new motor vehi-
2 cle.

3 g. Nothing in this subdivision shall be construed to prohibit a fran-
4 chisor, manufacturer, or distributor from sponsoring activities intended
5 to generate leads toward the sale or lease of a new motor vehicle by a
6 franchisee.

7 b-3. In the case of an application for registration as an automobile
8 broker business, either for initial registration or renewal thereof, the
9 name and address of the surety company which will issue the bond
10 required by subdivision one of section seven hundred forty-a of the
11 general business law, a copy of such bond certified by the secretary of
12 state or one of such secretary of state's agents, and a statement indi-
13 cating any interest in the applicant's business entity by a person or
14 entity described in paragraph f of subdivision one or paragraph f of
15 subdivision seven of this section, or any employee or person, control-
16 ling person or entity thereof. If the bond is to be issued by an author-
17 ized agent of the surety company licensed by the state, then the name
18 and address of that agent may be provided in lieu of the information
19 concerning the surety company.

20 § 17. Section 415 of the vehicle and traffic law is amended by adding
21 two new subdivisions 26 and 27 to read as follows:

22 26. Penalties and rights of action for failure to obtain a certificate
23 of registration as an automobile broker pursuant to subdivision three-a
24 and paragraph b-3 of subdivision five of this section. In addition to
25 any other action authorized by law, the commissioner, or any person
26 designated by such commissioner, may proceed against a party who has
27 operated as an automobile broker without certificate of registration in
28 accordance with the provisions of this article, in any one or more
29 proceedings and by order to enjoin such unlawful acts or practices and
30 requiring the offending party to pay the people of this state a penalty
31 in a sum not less than four thousand dollars and not more than ten thou-
32 sand dollars for each violation found to have been committed. Civil
33 penalties assessed under this subdivision shall be paid to the commis-
34 sioner for deposit into the state treasury, and unpaid civil penalties
35 may be recovered by the commissioner in a civil action in the name of
36 the commissioner. For the purposes of this subdivision, a "violation"
37 shall mean each vehicle sold or leased to a consumer for which the party
38 that failed to obtain certification as an automobile broker has served
39 as an automobile broker.

40 27. Automobile broker record requirements. a. Automobile brokers shall
41 maintain a permanently bound book in which shall be recorded the make,
42 model, year, color and vehicle identification number of all new motor
43 vehicles for which such broker has provided a service of purchasing,
44 arranging, assisting, facilitating or effecting the purchase or lease of
45 such automobile within any preceding six-year period. Such broker shall
46 also record in such book the name and address of the purchaser or lessor
47 of such automobile, the date of sale or commencement of lease of such
48 automobile and the name and address of the dealer from which the automo-
49 bile was purchased or leased.

50 b. Automobile broker businesses shall maintain a permanently bound
51 book in which shall be recorded all completed orders to search for a new
52 motor vehicle within any preceding six-year period. Such broker shall
53 also record in such book the date of such order, the name and address of
54 the person or entity ordering such search, the automobile specifications
55 provided by such prospective buyer or lessee and the name and address of

1 the dealers solicited for a quote or offer on behalf of such prospective
2 buyer or lessee.

3 c. Such books shall be open for inspection by the commissioner, or
4 such commissioner's agent, during reasonable business hours. The commis-
5 sioner may establish by rule the form of any such book.

6 d. As an alternative to a bound book, an automobile broker may use a
7 computer and software approved by the department to maintain the records
8 required to be kept by this section, provided all information required
9 by paragraphs a and b of this subdivision are recorded and the records
10 conform to such additional requirements as determined by the commis-
11 er.

12 § 18. Nothing in this act shall be construed to limit, or to enlarge,
13 the protections that 47 U.S.C. § 230 confers on an interactive computer
14 service for content provided by another information content provider, as
15 such terms are defined in 47 U.S.C. § 230.

16 § 19. Severability. If any provision of this act, or any application
17 of any provision of this act, is held to be invalid, that shall not
18 affect the validity or effectiveness of any other provision of this act,
19 or of any other application of any provision of this act, which can be
20 given effect without that provision or application; and to that end, the
21 provisions and applications of this act are severable.

22 § 20. This act shall take effect immediately; provided that all auto-
23 mobile brokers registered on the effective date of this act shall have
24 ninety days to come into compliance with the provisions of this act; and
25 provided, further, that sections two, five, ten, and thirteen of this
26 act shall take effect on the same date and in the same manner as chapter
27 610 of the laws of 2024, takes effect.