

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1223

Short Title: Protect Consumer/Auto Financing Transaction. (Public)

Sponsors: Representatives Blue, Glazier, Harrison (Primary Sponsors); Cotham, Faison, E. Floyd, Insko, Jones, Lucas, Luebke, Wainwright, Weiss, Womble, and Wray.

Referred to: Commerce, Small Business, and Entrepreneurship, if favorable, Judiciary II.

April 9, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE ADDITIONAL CONSUMER PROTECTIONS IN CONDITIONAL
3 SALES CONTRACTS, TO PROVIDE ITEM-BASED PRICING FOR ADD-ON
4 SERVICES AND PRODUCTS IN MOTOR VEHICLE SALES, AND TO PROHIBIT
5 DEALER COMPENSATION FOR INCREASING INTEREST RATES ON MOTOR
6 VEHICLE LOANS.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 20-75.1 reads as rewritten:

9 "**§ 20-75.1. Conditional delivery of motor vehicles.**

10 (a) Notwithstanding G.S. 20-52.1, 20-72, and 20-75, nothing contained in those
11 sections prohibits a dealer from entering into a contract with any purchaser for the sale of a
12 vehicle and delivering the vehicle to the purchaser under terms by which the dealer's obligation
13 to execute the manufacturer's certificate of origin or the certificate of title is conditioned on the
14 purchaser obtaining financing for the purchase of the vehicle. The purchaser may cancel the
15 sale at any time before a financing agreement is final, and the dealer shall return any down
16 payment or trade-in vehicle the purchaser submitted in the same condition as the purchaser
17 delivered the trade-in vehicle to the dealer. The purchaser shall return the purchased vehicle
18 back to the dealer in the same condition as the dealer delivered the vehicle to the purchaser,
19 normal wear and tear excepted, within 24 hours of the cancellation.

20 (b) Liability, collision, and comprehensive insurance on a vehicle sold and delivered
21 conditioned on the purchaser obtaining financing for the purchaser of the vehicle shall be
22 covered by the dealer's insurance policy until such financing is finally approved and execution
23 of the manufacturer's certificate of origin or execution of the certificate of title. Upon final
24 approval and execution of the manufacturer's certificate of origin or the certificate of title, and
25 upon the purchaser having liability insurance on another vehicle, the delivered vehicle shall be
26 covered by the purchaser's insurance policy beginning at the time of final financial approval
27 and execution of the manufacturer's certificate of origin or the certificate of title. The dealer
28 shall notify the insurance agency servicing the purchaser's insurance policy or the purchaser's
29 insurer of the purchase on the day of, or if the insurance agency or insurer is not open for
30 business, on the next business day following approval of the purchaser's financing and
31 execution of the manufacturer's certificate of origin or the certificate of title. This subsection is
32 in addition to any other provisions of law or insurance policies and does not repeal or supersede
33 those provisions."

34 **SECTION 2.** Part 4 of Article 3 of Chapter 20 of the General Statutes is amended
35 by adding a new section to read:

36 "**§ 20-75.2. Disclosure of prices of ancillary items in sale by dealer.**



1 A dealer shall present to a purchaser a listing of all ancillary items sold with a motor
2 vehicle with the cash price for each item clearly and conspicuously disclosed. The term
3 "ancillary items" includes, but is not limited to, extended or additional warranties, security
4 systems, vehicle service contracts, automobile club memberships, roadside assistance
5 programs, road hazard protection programs, undercoating, and rustproofing. If the ancillary
6 items are sold as a package, the listing shall clearly and conspicuously indicate the individual
7 price for each item. If the sales contract is a retail installment sales contract, then the dealer
8 shall provide the customer a document showing the total of all scheduled payments with the
9 ancillary items included and the total of all scheduled payments without the ancillary items
10 included prior to executing the retail installment sales contract. No dealer shall represent that
11 the sale of any ancillary item is required to purchase or finance the purchase of the vehicle."

12 **SECTION 3.** G.S. 20-101.2 reads as rewritten:

13 "**§ 20-101.2. Conspicuous disclosure of dealer finance yield charges. Dealer finance yield**
14 **charges prohibited.**

15 (a) ~~A motor vehicle dealer shall not charge a fee or receive a commission or other~~
16 ~~compensation for providing, procuring, or arranging financing for the retail purchase or lease of~~
17 ~~a motor vehicle, unless the dealer complies with both of the following requirements:~~

18 (1) ~~The dealer shall post a conspicuous notice in the sales or finance area of the~~
19 ~~dealership measuring at least 24 inches on each side informing customers~~
20 ~~that the dealer may receive a fee, commission, or other compensation for~~
21 ~~providing, procuring, or arranging financing for the retail purchase or lease~~
22 ~~of a motor vehicle, for which the customer may be responsible.~~

23 (2) ~~The dealer shall disclose conspicuously on the purchase order or buyer's~~
24 ~~order, or on a separate form provided to the purchaser at or prior to the~~
25 ~~closing on the sale of the vehicle, that the dealer may receive a fee,~~
26 ~~commission, or other compensation for providing, procuring, or arranging~~
27 ~~financing for the retail purchase or lease of a motor vehicle, for which the~~
28 ~~customer may be responsible.~~

29 (b) ~~Nothing contained in this section or elsewhere under the law of this State shall be~~
30 ~~deemed to require that a motor vehicle dealer disclose to any actual or potential purchaser the~~
31 ~~dealer's contractual arrangements with any finance company, bank, leasing company, or other~~
32 ~~lender or financial institution, or the amount of markup, profit, or compensation that the dealer~~
33 ~~will receive in any particular transaction or series of transactions from the charging of such~~
34 ~~fees.~~

35 In connection with a consumer credit installment sale contract for a motor vehicle, no
36 dealer may accept or solicit any compensation that is based on the interest rate, annual
37 percentage rate, or the amount financed and that is either (i) for the provision, procurement, or
38 arrangement of financing or (ii) for the sale, assignment, or transfer of the consumer credit
39 installment sale contract."

40 **SECTION 4.** This act becomes effective October 1, 2009.