

Department of Legislative Services  
Maryland General Assembly  
2015 Session

FISCAL AND POLICY NOTE  
Revised

Senate Bill 298

(Senator Norman)

Judicial Proceedings

Environment and Transportation

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Vehicle Laws - Dealers - Financing or Leasing Agreements

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This bill requires a motor vehicle dealer that sells or leases a vehicle before the approval of dealer-arranged financing to provide notice of the rights and duties of the dealer and buyer/lessee, a signed copy of which must be provided before delivery of the vehicle. The dealer is required to provide notice in writing of the disapproval of any financing within four days; the buyer/lessee must then return the vehicle within two days, after which the vehicle is subject to repossession. The bill does not prohibit a renegotiation of financing or leasing terms upon return of the vehicle, but it specifically authorizes the buyer/lessee to cancel the transaction. Upon cancellation, the dealer must return any trade-in vehicle, down payment, titling fee, and excise tax paid, dealer processing charge, and any other fee, tax, or charge; the dealer is prohibited from charging any fee for the use of the vehicle. The bill also requires the dealer to maintain required security for a vehicle until the terms of a financing or lease agreement are approved. Finally, a violation of the bill is an unfair and deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subject to MCPA's civil and criminal penalty provisions.

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Fiscal Summary

**State Effect:** The bill's imposition of existing penalty provisions does not have a material impact on State finances or operations. The Motor Vehicle Administration (MVA) and Consumer Protection Division of the Office of the Attorney General can likely handle any complaints with existing resources.

**Local Effect:** The bill's imposition of existing penalty provisions does not have a material impact on local government finances or operations.

**Small Business Effect:** Potential meaningful.

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## Analysis

**Bill Summary:** The notice provided to a buyer/lessee under the bill must state:

For finance or lease sales: The financing or lease agreement you entered into with the dealer is not final and must be approved by a third-party financial institution. If the terms are approved, the sale cannot be canceled. If the terms are not approved, the dealer must notify you in writing within 4 days of delivery of the vehicle to you, and you or the dealer may cancel this sale. If the sale is canceled, the vehicle delivered to you must be returned to the dealer in the same condition it was given to you, except for normal wear and tear, within 2 days of your receipt of a written notice of the third-party rejection. Unless you and the dealer agree on different terms, any down payment, titling fee, excise tax, dealer processing charge, or any other fee, tax, or charge associated with the transaction and any trade-in vehicle, in the same condition in which the dealer received the vehicle, will be returned to you immediately and you may not be charged a fee for use of the vehicle that was the subject of the sale. You may not waive any of these rights. If you feel the dealer has failed to comply with the terms of this notice, you may contact the Motor Vehicle Administration or the Consumer Protection Division of the Office of the Attorney General.

**Current Law:** MVA regulations specify that a temporary registration plate may only be issued by a dealer to a buyer in a *bona fide sale*. Longstanding MVA guidance issued to its vehicle dealer licensees clarifies that the term “bona fide sale” contained in MVA regulations prohibits the issuance of temporary plates for a vehicle sold before all financial arrangements and other prerequisite conditions have been met. This guidance was designed to prevent potentially abusive sales practices following the “spot delivery” of a vehicle in which a customer takes delivery of a vehicle before all financial and other arrangements have been consummated, allowing a salesman to potentially request that the customer return with the vehicle at a later date to renegotiate financing or other contractual terms that were not finalized on the date the consumer took possession of the vehicle.

An unfair or deceptive trade practice under MCPA includes, among other acts, any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity, tendency, or effect of deceiving or misleading consumers. The prohibition against engaging in any unfair or deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services; the extension of consumer credit; the collection of consumer debt; or the offer for or actual purchase of consumer goods or consumer realty from a consumer by a merchant whose business includes paying off

consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.

The Consumer Protection Division is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, issue a cease and desist order, or file a civil action in court. A merchant who violates MCPA is subject to a fine of up to \$1,000 for the first violation and up to \$5,000 for each subsequent violation. In addition to any civil penalties that may be imposed, any person who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$1,000 and/or imprisonment for up to one year. The Attorney General may also seek an injunction to prohibit a violation from continuing.

**Small Business Effect:** The bill may result in a meaningful impact on small business motor vehicle dealers to the extent that the bill codifies sales practices that preserve flexibility for dealers and promote vehicle sales or leases. However, the bill's restrictions and penalties may also deter or discourage some "spot delivery" transactions.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 313 (Delegate Beidle) - Environment and Transportation.

**Information Source(s):** Maryland Department of Transportation, Department of Legislative Services

**Fiscal Note History:** First Reader - February 17, 2015  
md/ljm Revised - Senate Third Reader - April 7, 2015  
Revised - Enrolled Bill - April 13, 2015

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Analysis by: Evan M. Isaacson

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510