

SENATE No. 2736

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

SENATE, April 22, 2024.

The committee on Senate Ways and Means to whom was referred the Senate Bill modernizing protections for consumers in automobile transactions (Senate, No. 171), - reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2736).

For the committee,
Michael J. Rodrigues

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**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act modernizing protections for consumers in automobile transactions.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 7N of chapter 90 of the General Laws, as appearing in the 2022
2 Official Edition, is hereby amended by striking out, in line 3, the words “such sale” and inserting
3 in place thereof the following word:- delivery.

4 SECTION 2. Said section 7N of said chapter 90, as so appearing, is hereby further
5 amended by striking out, in lines 9 and 13, the word “sale” and inserting in place thereof, in each
6 instance, the following word:- delivery.

7 SECTION 3. Paragraph (B) of subsection (2) of section 7N¼ of said chapter 90, as so
8 appearing, is hereby amended by striking out clauses (i) to (iii), inclusive, and inserting in place
9 thereof the following 3 clauses:-

10 (i) For a used motor vehicle which, at the time of sale, has been operated less than 50,000
11 miles, 90 days or 3,750 miles, whichever occurs first; provided, however, that said 90-day or
12 3,750-mile warranty is in addition to any right the consumer may have under section 7N½.

13 (ii) For a used motor vehicle which, at the time of sale, has been operated not less than
14 50,000 but less than 100,000 miles, 60 days or 2,500 miles, whichever occurs first.

15 (iii) For a used motor vehicle which, at the time of sale, has been operated not less than
16 100,000 miles but less than 150,000 miles, 30 days or 1,250 miles, whichever occurs first.

17 SECTION 4. Section 58 of chapter 140 of the General Laws, as so appearing, is hereby
18 amended by striking out, in line 32, the figure “\$25,000” and inserting in place thereof the
19 following figure:- \$50,000.

20 SECTION 5. Subsection (c) of said section 58 of said chapter 140, as so appearing, is
21 hereby further amended by striking out paragraph (2) and inserting in place thereof the following
22 paragraph:-

23 (2) Any person, or the attorney general, may make a claim for recovery against the bond
24 for an act or omission on which the bond is conditioned if the act or omission occurred during
25 the term of the bond; provided, however, that every bond shall provide that no claim shall be
26 made against the bond unless the claimant provides the bondholder notice of the claim within 1
27 year after the event giving rise to the claim.

28 SECTION 6. Said subsection (c) of said section 58 of said chapter 140, as so appearing,
29 is hereby further amended by adding the following paragraph:-

30 (9) The attorney general may recover from the bond or its equivalent on behalf of a
31 person or a class of persons who suffer loss under clauses (i) to (vi), inclusive, of paragraph (1).

32 SECTION 7. Section 1 of chapter 255B of the General Laws, as so appearing, is hereby
33 amended by striking out the definition of “Holder” and inserting in place thereof the following 3
34 definitions:-

35 “Holder”, the retail seller of the motor vehicle under or subject to a retail instalment
36 contract, lease agreement or, if the contract is purchased by a financing agency or other assignee,
37 the sales finance company or other assignee.

38 “Lease agreement” or “lease”, a contract, signed by the lessee in the commonwealth, that
39 includes payment for the use of a motor vehicle for a period of time not less than 4 months.

40 “Lessee”, a person, who executes a lease agreement or lease on a motor vehicle for use
41 primarily for personal, family or household purposes, or any legal successor in interest to such
42 person.

43 SECTION 8. Said section 1 of said chapter 255B, as so appearing, is hereby further
44 amended by striking out the definition of “retail instalment contract” or “contract” and inserting
45 in place thereof the following definition:-

46 “Retail instalment contract” or “contract”, an agreement, signed by the buyer in the
47 commonwealth, pursuant to which the title to, the property in or a lien upon a motor vehicle,
48 which is the subject matter of a retail instalment sale, is retained or taken by a retail seller from a
49 retail buyer as security, in whole or in part, for the buyer's obligation. The term shall include a
50 chattel mortgage, a conditional sales contract and a contract for the bailment of a motor vehicle
51 by which the bailee contracts to pay as compensation for its use a sum substantially equivalent to
52 or in excess of its value and by which it is agreed that the bailee is bound to become, or has the

53 option of becoming, the owner of the motor vehicle upon full compliance with the terms of the
54 contract.

55 SECTION 9. Said section 1 of said chapter 255B, as so appearing, is hereby further
56 amended by striking out the definition of “Retail seller” or “seller” and inserting in place thereof
57 the following definition:-

58 “Retail seller” or “seller”, a person who sells or leases a motor vehicle to a retail buyer or
59 lessee under or subject to a retail instalment contract or lease agreement.

60 SECTION 10. Said chapter 255B is hereby further amended by striking out section 20A,
61 as so appearing, and inserting in place thereof the following section:-

62 Section 20A. (a) An agreement of the parties in a retail instalment contract or lease
63 agreement defining default is enforceable only to the extent that the default is material and
64 consists of the buyer’s or lessee’s failure to make at least 1 installment as required by the
65 agreement or the occurrence of an event which substantially impairs the value of the collateral.

66 (b) After a default by a buyer or lessee under a consumer credit transaction or lease
67 agreement, the secured creditor or lessor may not bring an action against the buyer or lessee or
68 proceed against the collateral until the secured creditor or lessor gives the buyer or lessee the
69 notice described in this section. The notice so required shall be deemed to be delivered when
70 delivered to the debtor or when mailed to the debtor at the debtor’s address last known to the
71 secured creditor or lessor. If a buyer or lessee cures a default after receiving notice and again
72 defaults, the secured creditor or lessor shall give another notice before bringing an action or
73 proceeding against the collateral with respect to the subsequent default, but no notice shall be
74 required in connection with a subsequent default if, within the period commencing on the date of

75 the consumer credit transaction or lease agreement subject to this section and the date of the
76 subsequent default, the debtor has cured a default after notice not less than 3 times.

77 (c) The notice shall be in writing and shall be given to the buyer or lessee not less than 10
78 days after the default. The notice shall conspicuously state the rights of the buyer or lessee upon
79 default in substantially the following form:

80 The heading shall read:—"Rights of Defaulting Buyer or Lessee under the Massachusetts
81 Motor Vehicle Installment Sales Act."

82 The body of the notice shall read:—"You may cure your default in (describe transaction
83 in a manner enabling buyer or lessee to identify it) by paying to (name and address of secured
84 creditor or lessor) (amount due) before (date which is at 21 days after notice is mailed). If you
85 pay this amount within the time allowed, you are no longer in default and may continue on with
86 the transaction as though no default had occurred.

87 If you do not cure your default by the date stated above, the creditor or lessor may sue
88 you to obtain a judgment for the amount of the debt or, if applicable, may take possession of the
89 collateral.

90 If the creditor or lessor takes possession of the collateral, if any, you may get it back by
91 paying the full amount of your debt plus any reasonable expenses incurred by the creditor or
92 lessor if you make the required payment within 20 days after the creditor or lessor takes
93 possession."

94 (d) During the 21-day period after delivery of the notice required by this section, the
95 secured creditor or lessor may not, because of that default, accelerate the unpaid balance of the
96 obligation, bring action against the buyer or lessee or proceed against the collateral.

97 (e) Unless the secured creditor or lessor has first notified the buyer or lessee that the
98 secured creditor or lessor has elected to accelerate the unpaid balance of the obligation because
99 of default, brought action against the buyer or lessee or proceeded against the collateral, the
100 buyer or lessee may cure a default consisting of a failure to pay money by tendering the amount
101 of all unpaid sums due at the time of tender, without acceleration, plus any unpaid delinquency
102 or deferral charges. Such a cure shall restore the buyer or lessee to the buyer's or lessee's rights
103 under the agreement as though the default had not occurred subject to subsection (b).

104 SECTION 11. Section 20B of said chapter 255B, as so appearing, is hereby amended by
105 striking out subsections (a) to (c), inclusive, and inserting in place thereof the following 3
106 subsections:-

107 (a) Subject to this section and section 20A, a secured creditor or lessor under a consumer
108 credit transaction or lease agreement may take possession of collateral. In taking possession, the
109 secured creditor or lessor under a consumer credit transaction or lease agreement may proceed
110 without a prior hearing only if: (i) the default is material and consists of the debtor's failure to
111 make at least 1 payment as required by the agreement or the occurrence of an event which
112 substantially impairs the value of the collateral; and (ii) possession can be obtained without use
113 of force, without breach of peace and, unless the debtor consents to an entry at the time of such
114 entry, without entry on property owned by or rented to the debtor.

115 (b) Except as provided in subsection (a), a secured creditor or lessor under a consumer
116 credit transaction or lease agreement may proceed against collateral only after a prior hearing. In
117 any proceeding where possession of the collateral is part of the relief sought by a holder, no court
118 shall allow a secured creditor or lessor to take possession of collateral until the right of the
119 secured creditor or lessor to take possession has been determined at a hearing at which the buyer
120 or lessee has an opportunity to be heard having been notified in writing of said hearing not less
121 than 7 days in advance thereof.

122 (c) The buyer or lessee under a consumer credit transaction or lease agreement may
123 redeem the collateral from the holder at any time within 20 days of the secured creditor's or
124 lessor's taking possession of the collateral, or thereafter until the secured creditor or lessor has
125 either disposed of the collateral, entered into a contract for its disposition or gained the right to
126 retain the collateral in satisfaction of the buyer's or lessee's obligation.