HOUSE DOCKET, NO. 2572 FILED ON: 1/20/2011

HOUSE . . . . . No. 1875

The Commonwealth of Massachusetts

PRESENTED BY:

Christopher G. Fallon

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act establishing a car buyer bill of rights.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Christopher G. Fallon	*33rd Middlesex*
David B. Sullivan	*6th Bristol*
Martin J. Walsh	*13th Suffolk*

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HOUSE . . . . . No. 1875

By Mr. Fallon of Malden, a petition (accompanied by bill, House, No. 1875) of Christopher G. Fallon, David B. Sullivan and Martin J. Walsh for legislation to establish a car buyer bill of rights. Consumer Protection and Professional Licensure.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *242* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act establishing a car buyer bill of rights.

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

SECTION 1. Paragraph (A) of subsection (2) of section 7N1/4 of chapter 90 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following clause:-

(iii) A dealer cannot advertise for sale or sell a used vehicle as “certified” or use any similar descriptive term in the advertisement or the sale of a used vehicle that implies the vehicle has been certified to meet the terms of a used vehicle certification program unless:

The vehicle has not sustained damage that substantially impairs its use or safety to the buyer.

The odometer on the vehicle indicates actual mileage, and has not been rolled back or otherwise altered to show fewer miles, or placed with an odometer showing fewer miles than actually driven.

The dealer has not actual knowledge that the vehicle has been repurchased by a dealer or manufacturer pursuant to a state or federal warranty statute.

The title to the vehicle has not been inscribed with the notation “Lemon Law Buyback,” “manufacturer repurchase,” “salvage,” “junk,” “nonrepairable,” “flood,” or similar designation or title designation required by this state or another state.

17 The vehicle has been inspected by a technician or technician qualified to inspect for
18 collision repair and mechanical condition.

19 Prior to sale, the dealer provides the buyer with a completed inspection report indicating
20 all the components inspected pursuant to the vehicle certification program and whether they meet
21 the standards of the vehicle certification program.

22 SECTION 2. Said section 7N1/4 of said chapter 90, as so appearing, is hereby further
23 amended by adding the following paragraph:

24 The office of consumer affairs may impose a fine of no more than $50 per vehicle per
25 violation for the first violation of this section and no more than $100 per vehicle per violation for
26 subsequent violations of this section.

27 SECTION 3. Section 9 of chapter 255 of the General Laws, as so appearing in the 2004
28 Official Edition is hereby amended by adding the following paragraph:-

29 The contract shall further contain the following disclosures, as applicable:

30 An itemization of the amount financed which shall include the following:

31 the cash price, exclusive of document preparation fees, taxes imposed on the sale, prior
32 credit or lease balance on property being traded in, the amount of any manufacturer's rebate
33 applied, and the amount charged for a service contract;

34 the fee to be retained by the seller for document preparation;

35 taxes imposed on the sale

36 the amount of any manufacturer's rebate;

37 the amount of any optional business partnership automation fee to register or transfer the
38 vehicle, which shall be labeled "optional RMV electronic filing fee";

39 the amount charged for a service contract;

40 the prior credit or lease balance remaining on the property being traded in, which shall be
41 labeled "prior credit or lease balance";

42 any charge for an optional debt cancellation agreement;

43 the total cash price, which shall be the sum of subparagraphs (a) to (h), inclusive.

44 The amount of the buyer's down payment itemized to show the following:

45 The agreed value and brief description of the property being traded in, if any;

46 The prior credit or lease balance, if any, owing on the property being traded in;

47 The net agreed value of the property being traded in, which shall be the difference
48 between the amounts disclosed in subparagraphs (a) and (b). If the prior credit or lease balance
49 of the property being traded in exceeds the agreed value of the property, a negative number shall
50 be stated.

51 The amount of any portion of the down payment to be deferred and which is not subject
52 to a finance charge.

53 The amount of any manufacturer's rebate applied or to be applied to the down payment.

54 The remaining amount paid or to be paid by the buyer as a down payment, which shall be
55 the sum of subparagraphs (a) to (e), inclusive.

56 3) The amount financed, which shall be the difference between subparagraph (1) (i) and
57 subparagraph (2) (f).

58 Any promotional warranty or financing arrangement.

59 SECTION 4. Said chapter 255B is hereby further amended by inserting after section 9
60 the following 2 sections:-

61 Section 9A.

62 (a)As used in this section the following words shall unless the context requires otherwise
63 have the following meanings:-

64 "Buy rate", the minimum annual percentage rate (APR) that is communicated to the
65 retail seller at which a sales finance company offers to finance a retail buyer's motor vehicle, or
66 at which a sales finance company offers to purchase, accept assignment or otherwise acquire the
67 retail installment contract."

68 "Finance markup charge", any positive difference between the annual percentage rate
69 (APR) of the retail installment contract and the buy rate."

70 "Consumer reporting agency", any person who assembles or evaluates consumer credit
71 information or other information on consumers for the purpose of furnishing consumer reports to
72 third parties.

73 (b)Every retail seller, prior to the execution of any retail installment sale or retail
74 installment contract, shall disclose to the retail buyer, in writing, the following:

75 The buyer's consumer credit rating as reported to the retail seller.

76 The buy rate as communicated to the retail seller by a sales finance company.

77 The cost incurred by the buyer of any charge for arranging financing, including, but not
78 limited to finance markup charges and processing fees.

79 Any arrangement to sell, assign, or otherwise transfer the contract to a third party for an
80 amount which is equal to, in excess of, or less than the amount financed under the contract.

81 c)The cost for arranging financing, including, but not limited to finance markup charges,
82 shall not exceed the greater of .5 per cent of the loan or $150.

83 d)The retail installment contract shall include the following on a single 81/2" x 11" piece
84 of paper in bold and in at least 10-point font, "Notice to the buyer: Your credit rating used to
85 evaluate your credit history for this purchase, as calculated by _____is_____. The
86 lowest annual percentage interest rate at which a lender would accept this contract or otherwise
87 extend credit to you is ___%. The annual percentage interest rate CHARGED TO YOU is
88 ____% and the total cost of arranging financing for you is____.

89 e)A violation of this section shall be deemed an unfair and deceptive act or practice
90 pursuant to section 2 of chapter 93A.

91 Section 9B. The buyer of any used or preowned motor vehicle has the right to cancel a
92 motor vehicle sales contract until midnight of the third business day after the day on which the
93 buyer signs an agreement or offer to purchase.

94 Cancellation occurs when the buyer gives written notice of cancellation to the seller at the
95 address specified in the contract. To complete the cancellation, the buyer must return the motor
96 vehicle, in substantially as good condition as when received, to the seller at the seller's place of
97 business within 24 hours of providing written notice of termination. A used motor vehicle that is
98 returned with damage sustained as a result of a defect existing at the time of sale shall be deemed
99 to be "insubstantially as good condition as when received" for the purposes of this section.

100 Notice of cancellation, if given by mail, is effective when deposited in the mail properly
101 addressed with postage paid.

102 (a)Notice of cancellation given by the buyer need not take any particular form, as long as
103 it is written, and, however expressed, is effective if it indicates the intention of the buyer not to
104 be bound by the motor vehicle conditional sale contract. (b) Upon completion of cancellation of
105 the contract, the buyer is entitled to a full refund from the seller minus a reasonable offset for
106 mileage added to the odometer after purchase. "A reasonable offset for mileage added to the
107 odometer after purchase" means the sum of the purchase price of the motor vehicle, divided by
108 120,000 miles, multiplied by the number of miles added to the odometer after purchase. (c) For
109 purposes of this section, "seller" does not include a private individual who is not required to be
110 licensed to sell vehicles in California.