

HOUSE No. 242

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 bill:

An Act establishing a car buyer bill of rights

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Christopher G. Fallon	33rd Middlesex
Robert M. Koczera	11th Bristol
James J. O'Day	14th Worcester District
John W. Scibak	2nd Hampshire
Christine E. Canavan	10th Plymouth
Frank I. Smizik	15th Norfolk
David P. Linsky	5th Middlesex
Robert L. Rice, Jr.	2nd Worcester
Mark V. Falzone	9th Essex
Thomas M. Stanley	9th Middlesex
Paul McMurtry	11th Norfolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 229 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

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:

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

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

- 6 1) The vehicle has not sustained damage that substantially impairs its use or safety to the buyer.
- 7 2) The odometer on the vehicle indicates actual mileage, and has not been rolled back or otherwise altered to
8 show fewer miles, or placed with an odometer showing fewer miles than actually driven.
- 9 3) The dealer has not actual knowledge that the vehicle has been repurchased by a dealer or manufacturer
10 pursuant to a state or federal warranty statute.
- 11 4) The title to the vehicle has not been inscribed with the notation “Lemon Law Buyback,” “manufacturer
12 repurchase,” “salvage,” “junk,” “nonrepairable,” “flood,” or similar designation or title designation
13 required by this state or another state.
- 14 5) The vehicle has been inspected by a technician or technician qualified to inspect for collision repair and
15 mechanical condition.
- 16 6) Prior to sale, the dealer provides the buyer with a completed inspection report indicating all the components
17 inspected pursuant to the vehicle certification program and whether they meet the standards of the vehicle
18 certification program.

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

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

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

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

- 26 1) An itemization of the amount financed which shall include the following:
27 a) the cash price, exclusive of document preparation fees, taxes imposed on the sale, prior credit or
28 lease balance on property being traded in, the amount of any manufacturer's rebate applied, and
29 the amount charged for a service contract;
30 b) the fee to be retained by the seller for document preparation;
31 c) taxes imposed on the sale
32 d) the amount of any manufacturer's rebate;
33 e) the amount of any optional business partnership automation fee to register or transfer the vehicle,
34 which shall be labeled "optional RMV electronic filing fee";
35 f) the amount charged for a service contract;
36 g) the prior credit or lease balance remaining on the property being traded in, which shall be labeled
37 "prior credit or lease balance";
38 h) any charge for an optional debt cancellation agreement;
39 i) the total cash price, which shall be the sum of subparagraphs (a) to (h), inclusive.
40 2) The amount of the buyer's down payment itemized to show the following:
41 a) The agreed value and brief description of the property being traded in, if any;
42 b) The prior credit or lease balance, if any, owing on the property being traded in;
43 c) The net agreed value of the property being traded in, which shall be the difference between the
44 amounts disclosed in subparagraphs (a) and (b). If the prior credit or lease balance of the property
45 being traded in exceeds the agreed value of the property, a negative number shall be stated.
46 d) The amount of any portion of the down payment to be deferred and which is not subject to a
47 finance charge.
48 e) The amount of any manufacturer's rebate applied or to be applied to the down payment.
49 f) The remaining amount paid or to be paid by the buyer as a down payment, which shall be the sum
50 of subparagraphs (a) to (e), inclusive.
51 3) The amount financed, which shall be the difference between subparagraph (1) (i) and subparagraph (2) (f).
52 4) Any promotional warranty or financing arrangement.

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

54 Section 9A.

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

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

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

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

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

- 66 1) The buyer's consumer credit rating as reported to the retail seller.
67 2) The buy rate as communicated to the retail seller by a sales finance company.
68 3) The cost incurred by the buyer of any charge for arranging financing, including, but not limited to finance
69 markup charges and processing fees.
70 4) Any arrangement to sell, assign, or otherwise transfer the contract to a third party for an amount which is
71 equal to, in excess of, or less than the amount financed under the contract.

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

74 d)The retail installment contract shall include the following on a single 8 1/2" x 11" piece of paper in bold and in at
75 least 10-point font, "Notice to the buyer: Your credit rating used to evaluate your credit history for this purchase, as
76 calculated by _____ is _____. The lowest annual percentage interest rate at which a lender would accept this
77 contract or otherwise extend credit to you is ____%. The annual percentage interest rate CHARGED TO YOU is
78 ____% and the total cost of arranging financing for you is_____.

79 e)A violation of this section shall be deemed an unfair and deceptive act or practice pursuant to section 2 of chapter
80 93A.

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

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

91 2) Notice of cancellation, if given by mail, is effective when deposited in the mail properly
92 addressed with postage paid.

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