ASSEMBLY SUBSTITUTE FOR
ASSEMBLY, No. 4033

STATE OF NEW JERSEY
216th LEGISLATURE

ADOPTED FEBRUARY 23, 2015

Sponsored by:
Assemblyman PAUL D. MORIARTY
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District 5 (Camden and Gloucester)
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SYNOPSIS
Regulates use of motor vehicle payment assurance devices.

CURRENT VERSION OF TEXT
Substitute as adopted by the General Assembly.
AN ACT concerning motor vehicle payment assurance devices and supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. As used in this act:
   “Dealer” means a person who is actively engaged in the business of buying, selling, exchanging, or leasing new or used motor vehicles at retail and who has an established place of business.
   “Financing agreement” means an agreement, through a bargained communication or written contract, of an extension of a loan or other line of credit by a lender to a borrower toward the purchase of a motor vehicle.
   “Lease agreement” has the same meaning as defined in section 2 of P.L.1988, c.123 (C.56:12-30).
   “Lender” means an agent, officer, director, and employee of a lender, or any person who solicits, arranges for, or otherwise participates or assists in the making of loans, or in any way acts as an intermediary between a borrower and a lender in effecting loans related to the sale or lease of a motor vehicle.
   “Motor vehicle” has the same meaning as defined in R.S.39:1-1.
   “Payment assurance device” means a device installed on a motor vehicle with global positioning system capability, or starter interrupt capability allowing for the remote enabling or disabling of the motor vehicle, and which is installed pursuant to a motor vehicle purchaser’s or lessee’s financing agreement or lease agreement.

2. a. A dealer or lender shall install or have installed a payment assurance device on a motor vehicle only if:
   (1) Written disclosure of the installation is provided to the consumer prior to or at the time the motor vehicle is purchased or leased, which shall include a statement of the intended use of the device and notification of the grace period and warning provided for in paragraphs (3) and (4) of this subsection;
   (2) The consumer is not billed or charged a fee for the installation of the device;
   (3) The dealer, lender, or an agent thereof, does not remotely disable the motor vehicle until the consumer is five or more days in default on the periodic payment due on the purchase or lease;
   (4) The consumer is provided a warning no less than 48 hours before the motor vehicle is disabled remotely;
   (5) The dealer, lender, or an agent thereof, does not remotely disable the motor vehicle while it is being operated;
   (6) The consumer is provided with the ability to start a disabled motor vehicle, in the event of an emergency; and
(7) For purposes of a financing agreement, the consumer’s interest rate on the loan or other line of credit is at least 10 percentage points lower than the maximum interest rate permitted by law, pursuant to subsection a. of N.J.S.2C:21-19.

b. A violation of the provisions of subsection a. of this section by a dealer or lender is an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.).

3. This act shall take effect on the first day of the fourth month next following enactment.

STATEMENT

This Assembly substitute regulates the use of payment assurance devices by motor vehicle dealers and lenders.

Under the provisions of the substitute, a “payment assurance device” is defined as a device installed on a motor vehicle with global positioning system (GPS) capability or starter interrupt capability allowing for the remote enabling or disabling of the motor vehicle, and which is installed pursuant to a motor vehicle purchaser’s or lessee’s financing agreement or lease agreement.

The substitute authorizes motor vehicle dealers and lenders to install, or have installed, payment assurance devices only if the following criteria are met:

(1) written disclosure of the installation and certain notifications are provided to the consumer when the vehicle is purchased or leased;

(2) the consumer is not billed or charged a fee for the installation of the device;

(3) the dealer, lender, or an agent thereof, does not remotely disable the vehicle until the consumer is five or more days in default on the periodic payment due on the purchase or lease;

(4) the consumer is provided a warning no less than 48 hours before the vehicle is disabled remotely;

(5) the dealer, lender, or an agent thereof, does not remotely disable the vehicle while it is being operated;

(6) the consumer is provided with the ability to start a disabled vehicle, in the event of an emergency; and

(7) for purposes of a financing agreement, the consumer’s interest rate on the loan is at least 10 percentage points lower than the maximum interest rate permitted by law.

Under the substitute, a violation of its provisions by a dealer or lender is an unlawful practice under the consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), which is punishable by a monetary penalty of not more than $10,000 for a first offense and not more than $20,000 for any subsequent offense. Additionally,
violations can result in cease and desist orders issued by the
Attorney General, the assessment of punitive damages, and the
awarding of treble damages and costs to the injured party.