

ASSEMBLY, No. 5523

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED JUNE 6, 2019

Sponsored by:

Assemblywoman YVONNE LOPEZ

District 19 (Middlesex)

Assemblyman P. CHRISTOPHER TULLY

District 38 (Bergen and Passaic)

Assemblywoman BRITNEE N. TIMBERLAKE

District 34 (Essex and Passaic)

Co-Sponsored by:

Assemblywoman Reynolds-Jackson

SYNOPSIS

Establishes new requirements for certain used motor vehicle dealers; creates “Used Car Buyer’s Bill of Rights.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/17/2019)

1 AN ACT concerning used motor vehicle dealers and amending and
2 supplementing various parts of the statutory law.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. R.S.39:10-2 is amended to read as follows:

8 39:10-2. As used in this chapter unless other meaning is clearly
9 apparent from the language or context, or unless inconsistent with
10 the manifest intention of the Legislature:

11 "New motor vehicle" means only a newly manufactured motor
12 vehicle, except a nonconventional type motor vehicle, and includes
13 all such vehicles propelled otherwise than by muscular power, and
14 motorcycles, motorized bicycles, trailers and tractors, and
15 manufactured homes not subject to real property taxation pursuant
16 to P.L.1983, c.400 (C.54:4-1.2 et seq.), excepting such vehicles as
17 run only upon rails or tracks and manufactured homes subject to
18 real property taxation.

19 "Used motor vehicle" means every motor vehicle and motorized
20 bicycle, except a nonconventional type motor vehicle, title to, or
21 possession of, which has been transferred from the person who first
22 acquired it from the manufacturer or dealer, and so used as to
23 become what is commonly known as "secondhand" within the
24 ordinary meaning thereof, and includes every motor vehicle and
25 motorized bicycle other than a "new motor vehicle," a
26 "nonconventional type motor vehicle" or a manufactured home
27 subject to real property taxation.

28 "Any motor vehicle," "every motor vehicle," or similar term,
29 means both new and used motor vehicles, except a
30 "nonconventional type motor vehicle."

31 "Nonconventional type motor vehicle" means every vehicle not
32 designed or used primarily for the transportation of persons or
33 property and only incidentally operated or moved over a highway,
34 including, but not limited to, ditch-digging apparatus, well-boring
35 apparatus, road and general purpose construction and maintenance
36 machinery, asphalt spreaders, bituminous mixers, bucket loaders,
37 ditchers, leveling graders, finishing machines, motor graders, road
38 rollers, scarifiers, earth-moving carryalls, scrapers, power shovels,
39 drag lines, self-propelled cranes, earth-moving equipment, trailers
40 and semitrailers which weigh less than 2,500 pounds, except that no
41 mobile or manufactured home or travel trailer shall be classified as
42 a nonconventional type motor vehicle, motorized wheelchairs,
43 motorized lawn mowers, bogies, farm equipment having a factory
44 shipping weight of less than 1,500 pounds, whether or not
45 motorized, including farm tractors within said weight limitation,

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 industrial tractors, scooters, go-carts, gas buggies and golf carts.
2 The **【Director of Motor Vehicles】** chief administrator shall have
3 power to make, amend and repeal regulations, not inconsistent with
4 the provisions of this paragraph, prescribing what further vehicles
5 or types of vehicles, not specified in this paragraph, shall be
6 included in the category of nonconventional type motor vehicles.

7 "Motor vehicles which constitute inventory held for sale" means
8 new motor vehicles and used motor vehicles held for the purpose of
9 sale by dealers and used motor vehicles held for the purpose of sale
10 by used motor vehicle dealers, and excludes motor vehicles held for
11 the purpose of lease or rental by a person engaged in the motor
12 vehicle leasing or rental business.

13 "Manufacturer's or importer's certificate of origin" means the
14 original written instrument or document required to be executed and
15 delivered by the manufacturer to his agent or a dealer, or a person
16 purchasing direct from the manufacturer, certifying the origin of the
17 vehicle.

18 "Certificate of ownership" means the document issued in
19 conformance with this chapter, certifying ownership of a motor
20 vehicle, other than manufacturer's or importer's certificate of origin.

21 "Assignment" means the execution of a prescribed form
22 transferring ownership of a motor vehicle from the person named
23 therein to the purchaser.

24 "Contract" means conditional sale agreement, bailment, lease,
25 chattel mortgage, trust receipt or any other form of security or
26 possession agreement executed prior to January 1, 1963, wherein
27 and whereby possession of a motor vehicle is delivered to the buyer
28 and title therein is to vest in the buyer at a subsequent time upon the
29 payment of part or all of the price, or upon the performance of any
30 other condition or happening of any contingency, or upon the
31 payment of a sum substantially equivalent to the value of the motor
32 vehicle, by which contract it is agreed that the buyer is bound to
33 become, or has the option of becoming, the owner of the motor
34 vehicle upon full compliance with the terms of the contract.

35 "Abstract" means the duplicate copy of the original certificate of
36 ownership recording any encumbrance or upon which the existence
37 of a security interest is noted.

38 "Title papers" means any instrument or document that is
39 evidence of ownership of a vehicle.

40 **【"Director" means the Director of Motor Vehicles, his deputy or**
41 **duly authorized agent.】**

42 "Chief administrator" or "administrator" means the chief
43 administrator of the New Jersey Motor Vehicle Commission.

44 "Manufacturer" means the person who originally manufactured
45 the motor vehicle.

46 "Dealer" means the agent, distributor or authorized dealer of the
47 manufacturer of the new motor vehicle, and who has an established
48 place of business.

1 "Licensee" means a new and used motor vehicle dealer or a used
 2 motor vehicle dealer.

3 "New and used motor vehicle dealer" means the agent,
 4 distributor or authorized dealer of a manufacturer of a new motor
 5 vehicle who is authorized to sell new and used motor vehicles
 6 pursuant to a franchise agreement, and who has an established place
 7 of business.

8 "Used motor vehicle dealer" means a person engaged in the
 9 business of selling, buying or dealing in used motor vehicles to a
 10 buyer at retail or as a wholesale motor vehicle dealer who is not
 11 authorized to sell motor vehicles pursuant to a franchise agreement,
 12 and who has an established place of business.

13 "Wholesale motor vehicle dealer" means a used motor vehicle
 14 dealer who is engaged in the business of buying, dealing in or
 15 selling used motor vehicles exclusively to other dealers or
 16 wholesale auctions, and not to buyers at retail.

17 "Person" includes natural persons, firms or copartnerships,
 18 corporations, associations, or other artificial bodies, receivers,
 19 trustees, common law or statutory assignees, executors,
 20 administrators, sheriffs, constables, marshals, or other persons in
 21 representative or official capacity, and members, officers, agents,
 22 employees, or other representatives of those hereinbefore
 23 enumerated.

24 "Buyer" includes purchaser, debtor, lessee, bailee, transferee,
 25 and any person buying, attempting to buy, or receiving a motor
 26 vehicle subject to a security interest, lease, bailment or transfer
 27 agreement, and their legal successors in interest.

28 "Consumer" means an individual who buys, leases, borrows, or
 29 bails any money, property or service which is primarily for
 30 personal, family or household purposes.

31 "Fund" means the Consumer Used Car Dealer Protection Fund
 32 established pursuant to section 7 of P.L. , c. (C.) (pending
 33 before the Legislature as this bill).

34 "Seller" means manufacturer, dealer, lessor, bailor, transferor
 35 with or without a security interest, and any other person selling,
 36 attempting to sell, or delivering a motor vehicle, and their legal
 37 successors in interest.

38 The terms "sell" or "sale" or "purchase" and any form thereof
 39 include absolute or voluntary sales and purchases, agreements to
 40 sell and purchase, bailments, leases, security agreements whereby
 41 any motor vehicles are sold and purchased, or agreed to be sold and
 42 purchased, involuntary, statutory and judicial sales, inheritance,
 43 devise, or bequest, gift or any other form or manner of sale or
 44 agreement of sale thereof, or the giving or transferring possession
 45 of a motor vehicle to a person for a permanent use; continued
 46 possession for 60 days or more is to be construed as permanent use.

47 "Manufacturer's number" means the original manufacturer's
 48 vehicle identification number die stamped upon the body, or frame,

1 or either or both of them, of a motor vehicle or the original
2 manufacturer's number die stamped upon the engine or motor of a
3 motor vehicle.

4 "Purchaser" means a person who takes possession of a motor
5 vehicle by transfer of ownership, either for use or resale, except
6 when a dealer **【when he】** takes possession through a certificate of
7 origin.

8 "Debtor" means the person who owes payment or other
9 performance of the obligation secured by a security interest in a
10 motor vehicle.

11 "Security interest" means an interest in a motor vehicle which
12 secures payment or other performance of an obligation.

13 "Security agreement" means an agreement which creates or
14 provides for a security interest in a motor vehicle.

15 "Secured party" means a lender, seller or other person in whose
16 favor there is a security interest.

17 "Gross vehicle weight rating" means the value specified by the
18 manufacturer as the loaded weight of the single or combination
19 vehicle and, if the manufacturer has not specified a value for a
20 towed vehicle, means the value specified for the towing vehicle plus
21 the loaded weight of the towed unit.

22 (cf: P.L.1990, c.115, s.4)

23

24 2. R.S.39:10-19 is amended to read as follows:

25 39:10-19. No person shall engage in the business of buying,
26 selling or dealing in motor vehicles in this State, nor shall a person
27 engage in activity that would qualify the person as a leasing dealer,
28 as defined in section 2 of P.L.1994, c.190 (C.56:12-61), unless: a.
29 the person is a licensed real estate broker acting as an agent or
30 broker in the sale of mobile homes without their own motor power
31 other than recreation vehicles as defined in section 3 of P.L.1990,
32 c.103 (C.39:3-10.11), or manufactured homes as defined in section
33 3 of P.L.1983, c.400 (C.54:4-1.4); or b. the person is authorized to
34 do so under the provisions of this chapter and P.L.1985, c.361
35 (C.56:10-26 et seq.).

36 The chief administrator may, upon application in such form as
37 the chief administrator prescribes, license any proper person as
38 **【such】** a dealer or leasing dealer. A licensed real estate broker shall
39 be entitled to act as an agent or broker in the sale of a mobile or
40 manufactured home as defined in subsection a. of this section
41 without obtaining a license from the chief administrator. For the
42 purposes of this chapter, a "licensed real estate broker" means a real
43 estate broker licensed by the New Jersey Real Estate Commission
44 pursuant to the provisions of chapter 15 of Title 45 of the Revised
45 Statutes. Any sale or transfer of a mobile or manufactured home, in
46 which a licensed real estate broker acts as a broker or agent
47 pursuant to this section, which sale or transfer is subject to any

1 other requirements of R.S.39:10-1 et seq., shall comply with all of
2 those requirements.

3 No person who has been convicted of a crime, arising out of
4 fraud or misrepresentation in the sale, leasing or financing of a
5 motor vehicle, shall be eligible to receive a license , provided that
6 nothing in this section shall be deemed to supersede P.L.1968,
7 c.282 (C.2A:168A-1 et seq.). For the purposes of this section, each
8 applicant for a license shall submit to the chief administrator the
9 applicant's name, address, fingerprints, and written consent for a
10 criminal history record background check to be performed. The
11 chief administrator is hereby authorized to exchange fingerprint
12 data with and receive criminal history record information from the
13 State Bureau of Identification in the Division of State Police and the
14 Federal Bureau of Investigation consistent with applicable State and
15 federal laws, rules, and regulations, for purposes of facilitating
16 determinations concerning licensure eligibility. The applicant shall
17 bear the cost for the criminal history record background check,
18 including all costs of administering and processing the check. The
19 Division of State Police shall promptly notify the chief
20 administrator in the event a current holder of a license or
21 prospective applicant, who was the subject of a criminal history
22 record background check pursuant to this section, is arrested for a
23 crime or offense in this State after the date the background check
24 was performed.

25 Each applicant for a new and used vehicle dealer license shall at
26 the time **【such】** the license is issued have established and
27 maintained, or by that application shall agree to establish and
28 maintain, within 90 days after the issuance thereof, a place of
29 business consisting of a permanent building not less than 1,000
30 square feet in floor space located in the State of New Jersey to be
31 used principally for the servicing and display of motor vehicles with
32 **【such】** any equipment installed therein as shall be requisite for the
33 servicing of motor vehicles in such manner as to make them comply
34 with the laws of this State and with any rules and regulations made
35 by the board governing the equipment, use, and operation of motor
36 vehicles within the State. However, a leasing dealer, who is not
37 engaged in the business of buying, selling, or dealing in motor
38 vehicles in the State, shall not be required to maintain a place of
39 business with floor space available for the servicing or display of
40 motor vehicles or to have an exterior sign at the lessor's place of
41 business.

42 An applicant for a used motor vehicle dealer or wholesale motor
43 vehicle dealer license shall, within 90 days after the issuance of the
44 license, establish and maintain a place of business which is located
45 in the State of New Jersey that conforms to all applicable
46 ordinances of the municipality in which it is located, as evidenced
47 by a certificate of occupancy issued to the dealer, and includes the
48 following:

1 (1) office space with a minimum of 72 square feet within a
 2 permanent, enclosed building;

3 (2) a desk and chair;

4 (3) a secured, locking filing cabinet or safe for document
 5 storage; and

6 (4) a landline telephone, for which call forwarding or answering
 7 services are prohibited.

8 If the office space is within a facility with other licensees, each
 9 office shall be separated by interior walls, have its own separate
 10 entrance, include a display area identifying the dealer's name, and
 11 be sufficient in size to display two motor vehicles. Nothing in this
 12 section shall be construed to require:

13 (a) a licensee to maintain an office which is separated from any
 14 other dealer, or separated from any other office, by exterior walls or
 15 a firewall conforming to Chapter 7, Section 706 of the International
 16 Building Code, unless that requirement is imposed by ordinance
 17 from the municipality in which the business is located; or

18 (b) a licensee, or the licensee's authorized signatory, to be
 19 present at the established place of business during the business
 20 hours set forth in the application for licensure provided there is an
 21 agent present at the location.

22 A license fee of \$200 shall be paid by an applicant upon the
 23 applicant's initial application for a license. The chief administrator
 24 may renew an applicant's license upon application for renewal on a
 25 form prescribed by the chief administrator and accompanied by a
 26 renewal fee of \$200. Every license shall expire 24 months from the
 27 date on which it is issued. The chief administrator may, at the chief
 28 administrator's discretion and for good cause shown, extend an
 29 applicant's license for an additional period not to exceed 12 months
 30 from the date on which it is scheduled to expire. The chief
 31 administrator may, at the chief administrator's discretion and for
 32 good cause shown, issue a license which shall expire on a date fixed
 33 by the chief administrator. The fee for licenses with an expiration
 34 date fixed by the chief administrator shall be fixed by the chief
 35 administrator in an amount proportionately less or greater than the
 36 fee established herein.

37 For the purposes of this section, a leasing dealer or an assignee
 38 of a leasing dealer whose leasing activities are limited to buying
 39 motor vehicles for the purpose of leasing them and selling motor
 40 vehicles at the termination of a lease shall not be deemed to be
 41 engaged in the business of buying, selling, or dealing in motor
 42 vehicles in this State.

43 (cf: P.L.2015, c.24, s.1)

45 3. Section 1 of P.L.2005, c.351 (C.39:10-19.1) is amended to
 46 read as follows:

47 1. As used in **【this act】** P.L.2005, c.351 (C.39:10-19.1 et seq.):

1 "Off-site sale" means the display and sale of new or used
2 recreational vehicles by a recreational vehicle dealer, or used motor
3 vehicles registered in New Jersey by a used motor vehicle dealer,
4 licensed under the provisions of R.S.39:10-19, at a location other
5 than **the dealer's established place of business** a location
6 authorized pursuant to section 4 of P.L. , c. (C.) (pending
7 before the Legislature as this bill). An "off-site sale" includes any
8 off-site display of vehicles at which a recreational vehicle or used
9 motor vehicle dealer has a sales person or employee present. For
10 the purposes of this act, "off-site sale" does not include:

11 a. An off-site display of vehicles at which a recreational
12 vehicle or used motor vehicle dealer has no sales personnel present;

13 b. The sale of a vehicle at an auction at which only wholesale
14 purchases are permitted; **or**

15 c. The use of telephones, telephone call-forwarding, email,
16 internet websites or other internet communications which allow a
17 **licensed dealer** licensee or dealership employee to communicate
18 with customers while either the customer or the **dealer** licensee or
19 employee thereof is not present at the licensed physical location of
20 the dealership **,** provided the contract for the sale of a vehicle is
21 finalized and the sale transaction completed at the licensed
22 location**]; or**

23 d. The sale of a used motor vehicle at a location authorized
24 pursuant to section 4 of P.L. , c. (C.) (pending before the
25 Legislature as this bill).

26 "Sponsoring organization" means:

27 a. a credit union, automobile club, or other such not for profit
28 organization or entity that makes the opportunity to attend and
29 purchase a motor vehicle at an off-site sale available to its
30 members; or

31 b. a trade show coordinator, or other such organization, entity,
32 or individual that makes the opportunity to attend and purchase a
33 recreational vehicle at an off-site sale available to ticketed
34 individuals.

35 (cf: P.L.2007, c.335, s.25)

36

37 4. (New section) a. Except as provided in subsection b. of this
38 section, a licensee shall only buy, deal in, or sell used a motor
39 vehicle at the following locations:

40 (1) the licensee's established place of business;

41 (2) the place of business or residence of a buyer;

42 (3) the place of business of a licensee; or

43 (4) a place of business authorized to conduct wholesale auctions
44 of motor vehicles.

45 b. A licensee shall be permitted to arrange to buy, deal in or
46 sell a motor vehicle over the internet or telephone provided that all

1 documentation related to the transaction is executed at a location
2 authorized pursuant to subsection a. of this section.

3
4 5. (New section) Each applicant for a license as a new and
5 used motor vehicle dealer, used motor vehicle dealer, or wholesale
6 motor vehicle dealer shall submit a certificate of insurance covering
7 the period of the prospective license term to indicate liability
8 insurance covers all vehicles to be owned by the licensee in the
9 amount required by section 3 of P.L.1972, c.70 (C.39:6A-3).

10
11 6. R.S.39:10-20 is amended to read as follows:

12 39:10-20. a. The chief administrator may either impose a fine or
13 suspend a license for a violation of any provision of this chapter.
14 Unless otherwise stated in this chapter, the chief administrator may,
15 after a hearing, impose a fine not to exceed \$500 for a first offense
16 and \$1,000 for any subsequent offense upon [the holder of a license
17 for a violation of] a licensee who violates any provision of this
18 chapter. The board is authorized to adopt rules and regulations, in
19 accordance with the "Administrative Procedure Act," P.L.1968,
20 c.410 (C.52:14B-1 et seq.), implementing the provisions of this
21 chapter and authorizing the chief administrator to impose fines for
22 the violation of these rules and regulations. Any fine imposed and
23 collected pursuant to this section shall be remitted to the
24 commission and used to defray its costs.

25 [The] b. Whenever a fine is not imposed pursuant to subsection
26 a. of this section, the chief administrator may, after a hearing,
27 suspend a license for a period [less than the unexpired term of a
28 license] not to exceed five concurrent days for a first offense or for
29 a period not to exceed 10 concurrent days for any subsequent
30 offense, or revoke a license [, after hearing,] for a violation of any
31 provision of this chapter, or for a violation of the rules and
32 regulations promulgated pursuant thereto, or upon the final
33 conviction of the licensee of a crime, arising out of fraud or
34 misrepresentation in the sale, leasing or financing of a motor
35 vehicle, or upon proof of the failure of a licensee to make payment
36 of the amount of any final judgment, rendered by a court of
37 competent jurisdiction against [such] the licensee and founded
38 upon a claim arising out of fraud or misrepresentation in the sale or
39 leasing of a motor vehicle, within 90 days after the same is finally
40 entered[, or for final conviction of the licensee for violating any
41 provision of chapter 171 of Title 2A or of any supplement thereof
42 (Observance of Sabbath Days)]. The clerk of the court in which
43 any conviction is rendered, or the court where it has no clerk, shall
44 forward to the chief administrator, immediately upon the entry
45 thereof, a certified copy of the conviction or a transcript thereof.
46 The clerk of the court in which any judgment founded upon fraud or
47 misrepresentation is rendered, or the court where it has no clerk,

1 shall forward to the chief administrator, immediately after the
2 expiration of the 90 days, a certified copy of the judgment, or a
3 transcript thereof, showing it to have been unsatisfied more than 90
4 days after it became final. The chief administrator shall, before
5 suspending or revoking the license, and at least 10 days prior to the
6 date set for the hearing, notify the **【holder of the license】** licensee,
7 in writing, of any charges made, and shall afford **【him】** the licensee
8 an opportunity to be heard in person or by counsel. The written
9 notice may be served either personally or by registered mail
10 addressed to the last-known address of the licensee. The chief
11 administrator may subpoena and bring before the chief
12 administrator any person in this State, or take testimony by
13 deposition, in the same manner as prescribed by law in judicial
14 proceedings in the courts of this State, and shall also issue and
15 deliver to the **【dealer such】** licensee any subpoenas as are requested
16 by the chief administrator. The Appellate Division of the Superior
17 Court shall have power to review, by an appeal in lieu of
18 prerogative writ taken by an aggrieved person, a final determination
19 of the chief administrator.

20 **【Any fine imposed and collected pursuant to this section shall be**
21 **remitted to the commission and used to defray the costs of the**
22 **commission.】**

23 c. Except as provided in paragraph (1) of this subsection, prior
24 to the chief administrator denying an application for licensure,
25 refusing to renew a license, imposing any fine, suspending or
26 revoking any license, there shall be a hearing, as a contested case,
27 in accordance with the provisions of the "Administrative Procedure
28 Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The chief administrator
29 may place responsibility for requesting the hearing on the licensee
30 provided the chief administrator gives the licensee proper notice of
31 the right to a hearing in accordance with the provisions of this
32 chapter and of the "Administrative Procedure Act," P.L.1968, c.410
33 (C.52:14B-1 et seq.).

34 (1) In the event of an emergent situation involving on-going
35 fraud, an inability of the chief administrator to obtain access to the
36 records which a licensee is required to maintain, or other
37 circumstance that could jeopardize the integrity of the chief
38 administrator's ability to prevent traffic in stolen or fraudulently
39 titled motor vehicles, the chief administrator may immediately issue
40 a preliminary suspension of a license.

41 (2) Together with the notice of preliminary suspension, the chief
42 administrator shall issue a notice of a preliminary hearing to be held
43 by the chief administrator no later than the third day after personal
44 service of the notice.

45 (3) At the preliminary hearing, the chief administrator shall
46 consider whether there exists probable cause to determine whether
47 the alleged conduct that served as a basis for the preliminary

1 suspension occurred and whether that conduct constituted a
2 sufficient basis to find an emergent situation justifying the
3 imposition of a preliminary suspension.

4 (4) Together with the notice of preliminary suspension, the chief
5 administrator may issue a notice of proposed final suspension,
6 revocation or other agency action. Any final action shall be subject
7 to the hearing requirements of this section.

8 d. (1) Except as provided in paragraph (2) of this subsection,
9 any notice required by this section shall be served personally upon
10 the licensee at the established place of business, or, in the case of a
11 new applicant, at the residence listed on the application.

12 (2) Personal service shall not be required for a preliminary
13 suspension in the event of an emergent circumstance, pursuant to
14 paragraph (1) of subsection c. of this section, that renders that form
15 of service impractical so long as the chief administrator gives notice
16 as is reasonable under the circumstances.

17 e. The chief administrator may subpoena and cause any person
18 in this State to appear, or take testimony by deposition, in the same
19 manner as prescribed by law in judicial proceedings in the courts of
20 this State, and shall also issue and deliver to the licensee any
21 subpoenas as are requested.

22 f. The Appellate Division of the Superior Court shall have
23 power to review, by an appeal in lieu of prerogative writ taken by
24 an aggrieved person, a final determination of the chief
25 administrator.

26 (cf: P.L.2007, c.335, s.26)

27
28 7. (New section) a. There is established the Consumer Used
29 Car Dealer Protection Fund. All fees collected pursuant to this
30 section shall be deposited into the fund. The fund shall be a special
31 dedicated, non-lapsing fund in the State Treasury to pay claims
32 against the fund and for no other purpose. The fund shall be used to
33 satisfy unpaid judgments of consumers of used motor vehicle
34 dealers. The chief administrator shall maintain an accurate record
35 of all transactions involving the fund.

36 b. The chief administrator shall not issue a used motor vehicle
37 dealer license to an applicant unless the applicant pays a fee of
38 \$250. Except as provided in subsections c. and d. of this section, a
39 used motor vehicle dealer shall pay an annual fee of \$250.

40 c. A used motor vehicle dealer who has not been subject to a
41 claim against the dealer's bond or against the fund for three
42 consecutive years shall pay an annual fee of \$100, and shall not be
43 required to pay an annual fee of \$250 or hold the \$50,000 bond
44 pursuant to section 8 of P.L. , c. (C.) (pending before the
45 Legislature as this bill).

46 d. Any used motor vehicle dealer that has not been the subject
47 of a claim against the dealer's bond or against the fund for three
48 years may elect to maintain continuous bonding pursuant to

1 section 14 of P.L. , c. (C.) (pending before the Legislature
2 as this bill). A used motor vehicle dealer that elects to maintain
3 continuous bonding pursuant to section 14 of P.L. , c. (C.)
4 (pending before the Legislature as this bill) shall not be required to
5 hold a bond pursuant to section 8 of P.L. , c. (C.)
6 (pending before the Legislature as this bill) or participate in the
7 fund, and shall be exempt from the payment of any fund fees.

8 e. The chief administrator may suspend or reinstate the
9 collection of fees.

10
11 8. (New section) a. Before the chief administrator issues a
12 used motor vehicle license, an applicant shall obtain and file with
13 the chief administrator a bond in the amount of \$50,000. This bond
14 is in addition to the requirement set forth in section 11 of P.L.1995,
15 c.373 (C.56:8-77). The bond shall come from a corporate surety
16 licensed to do business in the State and approved by the Attorney
17 General. The bond shall be conditioned on a statement by the
18 applicant that the applicant will not practice fraud or make any
19 fraudulent representation in connection with the sale or lease of a
20 used motor vehicle, or violate any provision of chapter 10 of Title
21 39 of the Revised Statutes in the conduct of the applicant's
22 business. The chief administrator may, without a hearing, suspend
23 the dealer's license during the period that the dealer does not have a
24 sufficient bond on file.

25 b. A consumer shall have a claim against the used motor
26 vehicle dealer's bond, and may recover damages awarded to the
27 consumer by a court of competent jurisdiction if the consumer
28 suffers any of the following:

29 (1) loss or damage in connection with the purchase or lease of a
30 used motor vehicle by reason of fraud or fraudulent representation
31 by a dealer or a dealer's salesperson acting within the scope of
32 employment;

33 (2) loss or damage resulting from a violation by a dealer or a
34 dealer's salesperson or employee of any provision of chapter 10 of
35 Title 39 of the Revised Statutes in connection with the purchase or
36 lease of a used motor vehicle; or

37 (3) loss or damage resulting from a dealer's breach of an
38 extended service contract.

39 c. Damages awarded pursuant to this section shall not exceed
40 the amount of the bond, from the surety, who shall be subrogated to
41 the rights of the consumer against the dealer or salesperson. The
42 liability of the surety shall be limited to actual damages, and shall
43 not include any punitive damages or attorney's fees assessed against
44 the dealer or the dealer's salesperson or employee.

45 d. In those cases in which a used motor vehicle dealer's surety
46 is liable pursuant to this section, the surety shall be liable only for
47 the first \$50,000 in claims against the dealer. Thereafter, the fund
48 shall be liable for the next \$75,000 in those cases in which the fund

1 itself may be liable. The aggregate liability of the dealer's surety,
2 regardless of the number of claims made against the bond or the
3 number of years the bond remains in force, shall not exceed
4 \$50,000.

5 e. The used motor vehicle dealer's surety shall notify the chief
6 administrator: when a claim is made against a dealer's bond; the
7 circumstances surrounding the claim; the amount of the claim and
8 when it is paid; and when a bond is cancelled, including the
9 effective date and reason for cancellation. The bond may be
10 cancelled as to future liability by the dealer's surety upon 30 days'
11 notice to the dealer and chief administrator.

12
13 9. (New section) a. Except as otherwise provided in
14 P.L. , c. (C.) (pending before the Legislature as this bill), a
15 consumer who has been awarded a final judgment in a court of
16 competent jurisdiction in the State may file a verified claim with the
17 chief administrator, requesting payment from the fund of any
18 unpaid amount of that judgment for:

19 (1) any loss or damage in connection with the purchase or lease
20 of a used motor vehicle by reason of fraud or fraudulent
21 representation by a dealer participating in the fund; or

22 (2) any loss or damage by reason of a violation by a dealer
23 participating in the fund of any of the provisions of chapter 10 of
24 Title 39 of the Revised Statutes in connection with the purchase or
25 lease of a used motor vehicle.

26 b. Any claim filed pursuant to this section shall be filed with
27 the chief administrator no sooner than 30 days and no later than 12
28 months after the judgment becomes final.

29 c. A consumer shall serve any pleadings or documents related
30 to any action against a used motor vehicle dealer on the chief
31 administrator by certified mail or any other form as determined by
32 the chief administrator. The service shall include an affidavit
33 setting forth any acts alleged to constitute fraud or violations of
34 chapter 10 of Title 39 of the Revised Statutes. Upon service of
35 process, the chief administrator shall have the right to request leave
36 of court to intervene.

37
38 10. (New section) a. The maximum amount of a claim
39 involving a single unpaid final judgement against the fund shall be
40 limited to \$25,000, regardless of the amount of the unpaid final
41 judgment.

42 b. The maximum amount of claims involving multiple unpaid
43 final judgements against the fund shall be limited to \$75,000
44 regardless of the total amounts of the unpaid final judgments, and
45 shall be paid only after the dealer's \$50,000 bond has been
46 exhausted.

47 c. If a claim has been made against the fund and the chief
48 administrator has reason to believe that there may be additional

1 claims against the fund from other judgements involving the same
2 dealer, the chief administrator may withhold any payment from the
3 fund involving that dealer for a period not to exceed the end of the
4 relevant license period. After this period, if the aggregate of claims
5 against the dealer will exceed \$75,000, a total of \$75,000 shall be
6 prorated among the claimants and paid from the fund in proportion
7 to the amounts of their unpaid final judgments against the dealer.
8 These claims shall be prorated only after the dealer's \$50,000 bond
9 has been exhausted.

10 d. The chief administrator shall notify a used motor vehicle
11 dealer who is the subject of the unpaid judgment that a verified
12 claim has been filed and that the dealer shall satisfy the judgment
13 debt. If the judgment debt is not fully satisfied within 30 days
14 following the date of the notification by the chief administrator, the
15 chief administrator shall make payment from the fund subject to the
16 other limitations set forth in this section.

17 e. Any sums representing interest, or punitive or exemplary
18 damages shall be excluded from the amount of any unpaid final
19 judgment on which a claim against the fund is based.

20 f. If at any time the fund is insufficient to fully satisfy any
21 claim or a portion thereof, the chief administrator shall pay that
22 claim or a portion of it to the claimants in the order that the claims
23 were filed with the chief administrator, provided that any claim by a
24 consumer shall take precedence over any other claim.

25
26 11. (New section) On the claimant's execution and delivery to
27 the chief administrator of an assignment to the chief administrator
28 of the claimant's rights against the used motor vehicle dealer the
29 chief administrator shall pay the claimant the amount the claimant
30 may recover from the fund.

31
32 12. (New section) The chief administrator shall immediately
33 notify a used motor vehicle dealer in writing of any payment to a
34 claimant from the fund and request full reimbursement. The chief
35 administrator shall suspend the license of any used motor vehicle
36 dealer who fails to reimburse or make specific arrangements to
37 reimburse the chief administrator within 30 days of the notification.
38 Any used motor vehicle dealer whose license is suspended shall not
39 be eligible for reinstatement until the amount paid from the fund to
40 the claimant, plus interest, is repaid in full.

41
42 13. (New section) Nothing contained in P.L. , c. (C.)
43 (pending before the Legislature as this bill) shall limit the authority
44 of the chief administrator to take disciplinary action against any
45 used motor vehicle dealer for any violation of chapter 10 of Title 39
46 of the Revised Statutes. The full repayment of any amount paid
47 from the fund on a dealer's account shall not nullify or modify the

1 effect of any disciplinary action assessed against that dealer for any
2 violation.

3
4 14. (New section) a. An applicant for renewal of a used motor
5 vehicle dealer's license may elect to obtain and continuously
6 maintain a bond in the amount of \$100,000 in lieu of participation
7 in the fund, if the applicant has not been the subject of a claim
8 against a bond issued pursuant to section 8 of P.L. , c. (C.)
9 (pending before the Legislature as this bill), section 11 of P.L.1995,
10 c.373 (C:56:8-77), or against the fund for three consecutive years.
11 The bond shall come from a corporate surety licensed to do
12 business in the State and approved by the Attorney General and
13 shall be filed with the chief administrator. The bond shall be
14 conditioned on a statement by the applicant that the applicant will
15 not practice fraud, make any fraudulent representation, or violate
16 any provision of chapter 10 of Title 39 of the Revised Statutes in
17 the conduct to the applicant's business.

18 b. In those cases in which the surety of a dealer electing the
19 continuous bonding shall be liable pursuant to section 15 of
20 P.L. , c. (C.) (pending before the Legislature as this bill),
21 the maximum liability to one claimant against the surety by reason
22 of a case involving a single transaction shall be limited to \$20,000
23 regardless of the amount of the claim by one claimant, and the
24 aggregate liability of the dealer's surety to any person, regardless of
25 the number of claims made against the bond or the number of years
26 the bond remains in effect shall not exceed \$100,000.

27 c. The chief administrator may, without holding a hearing,
28 suspend the license of a used motor vehicle dealer during the period
29 that the dealer does not have a sufficient bond on file. A used
30 motor vehicle dealer bonded under this section shall be exempt
31 from the fund fees and bonding requirements set forth in sections 7
32 and 8 of P.L. , c. (C. and C.) (pending before the
33 Legislature as this bill).

34
35 15. (New section) a. A consumer shall have a claim against a
36 used motor vehicle dealer electing continuous bonding pursuant to
37 section 14 of P.L. , c. (C.) (pending before the Legislature
38 as this bill), and may recover damages awarded to the consumer by
39 a court of competent jurisdiction, if the consumer suffers any of the
40 following:

41 (1) any loss or damage in connection with the retail purchase or
42 lease of a used motor vehicle by reason of fraud or fraudulent
43 representation by the dealer or the dealer's salesperson or employee
44 acting within the scope of employment;

45 (2) loss or damage resulting from a violation by a dealer or a
46 dealer's salesperson or employee of any provision of chapter 10 of
47 Title 39 of the Revised Statutes in connection with the purchase or
48 lease of a used motor vehicle; or

1 (3) loss or damage resulting from a dealer's breach of an
2 extended service contract entered into on or after the effective date
3 of P.L. , c. (C.) (pending before the Legislature as this bill).

4 b. Damages awarded pursuant to this section shall not exceed
5 the amount of the bond, from the surety, who shall be subrogated to
6 the rights of the consumer against the dealer or salesperson. The
7 liability of the surety shall be limited to the actual damages and
8 attorneys' fees assessed against the dealer or the dealer's
9 salesperson or employee as part of the underlying judgment. The
10 liability of the surety shall not include any sums representing
11 interest or punitive or exemplary damages assessed against the
12 dealer or the dealer's salesperson or employee.

13 c. The dealer's surety shall notify the chief administrator: when
14 a claim is made against a dealer's bond; the circumstances
15 surrounding the claim; the amount of the claim and when it is paid;
16 and when a bond is cancelled, including the effective date and
17 reason for cancellation. The bond may be cancelled as to future
18 liability by the dealer's surety upon 30 days' notice to the dealer
19 and chief administrator.
20

21 16. (New section) a. Any used motor vehicle dealer and any
22 salesperson or employee of a used motor vehicle dealer shall
23 register with the commission.

24 b. A salesperson or employee of a used motor vehicle dealer
25 shall not engage in the sale, leasing or financing of a used motor
26 vehicles unless the employee is registered with the commission.

27 c. A salesperson or employee required to be registered pursuant
28 to this section shall register with the commission by submitting the
29 following on a form provided by the chief administrator:

30 (1) The name and street address of the salesperson or employee;

31 (2) The name and street address of the employer;

32 (3) The name, residence and business street address of each
33 officer, director, principal and person with an ownership interest of
34 10 percent or more in the employer, including the percentage of
35 ownership held; and

36 (4) Whether the employee has been adjudged liable of fraud or
37 misrepresentation in connection with the sale or lease of a motor
38 vehicle. For the purposes of this paragraph, a judgment of liability
39 in an administrative or civil action shall include, but not be limited
40 to, any finding or admission that the employee engaged in an
41 unlawful practice.

42 d. Each salesperson or employee shall file a disclosure
43 statement with the chief administrator stating whether the employee
44 has been convicted of any violation of the following provisions, or
45 their equivalent under the laws of any other jurisdiction:
46 N.J.S.2C:11-2; N.J.S.2C:11-3; N.J.S.2C:11-4; N.J.S.2C:12-1;
47 N.J.S.2C:12-3; N.J.S.2C:13-1; N.J.S.2C:14-2; subsection a. or b. of
48 N.J.S.2C:17-1; subsection a. or b. of N.J.S.2C:17-2; N.J.S.2C:15-1;

1 N.J.S.2C:18-2; N.J.S.2C:20-4; N.J.S.2C:20-5; N.J.S.2C:20-7;
2 N.J.S.2C:20-9; N.J.S.2C:21-2; section 1 of P.L.1983, c.565,
3 (C.2C:21-2.1); section 2 of P.L.1997, c.385 (C.2C:21-2.3);
4 N.J.S.2C:21-3; N.J.S.2C:21-4; N.J.S.2C:21-6; N.J.S.2C:21-7;
5 N.J.S.2C:21-12; N.J.S.2C:21-14; N.J.S.2C:21-15; N.J.S.2C:21-19;
6 N.J.S.2C:27-2; N.J.S.2C:27-3; N.J.S.2C:27-5; section 100 of
7 P.L.1999, c.440 (C.2C:27-9); section 5 of P.L.2003, c.255
8 (C.2C:27-10); section 6 of P.L.2003, c.255 (C.2C:27-11);
9 N.J.S.2C:28-1; N.J.S.2C:28-2; N.J.S.2C:28-3; N.J.S.2C:28-4;
10 N.J.S.2C:28-5; N.J.S.2C:28-6; N.J.S.2C:28-7; N.J.S.2C:28-8;
11 N.J.S.2C:30-2; N.J.S.2C:30-3; N.J.S.2C:35-5; N.J.S.2C:35-10;
12 N.J.S.2C:37-2; N.J.S.2C:37-3; or N.J.S.2C:37-4.

13 e. Whenever any information required to be included in the
14 registration application changes, or if additional information
15 becomes available after the application, the salesperson or
16 employee shall provide that information to the chief administrator,
17 in writing, within 20 calendar days of the change or addition.
18 Whenever any other information filed with the chief administrator
19 pursuant to this section has changed, the salesperson or employee
20 shall provide that information to the chief administrator, in writing,
21 within 20 calendar days of the change or addition.

22 f. A salesperson or employee who is registered or seeking to
23 register with the commission shall have the continuing duty to
24 provide any assistance or information; to produce any records
25 requested by the chief administrator; and to cooperate in any
26 inquiry, investigation or hearing conducted by the chief
27 administrator.

28 g. The chief administrator may refuse to issue or renew, or may
29 suspend or revoke, any registration issued by the commission upon
30 proof that a salesperson or employee engaged in the use or
31 employment of dishonesty, fraud, deception, misrepresentation,
32 false promise or false pretense or is convicted of a crime relating
33 adversely to the sale, leasing or financing of a used motor vehicle.

34 h. A registration that is suspended by the chief administrator
35 may be reinstated upon the salesperson or employee satisfying the
36 conditions for reinstatement as determined by the chief
37 administrator, including the payment of the reinstatement fee.

38

39 17. R.S.39:10-22 is amended to read as follows:

40 39:10-22. a. The chief administrator may prepare and prescribe
41 any or all forms necessary for the proper administration of this
42 chapter. The chief administrator or **his** the chief administrator's
43 agent may seize and take possession of any certificate of ownership
44 or other title papers to which the chief administrator may be entitled
45 under chapter 10 of Title 39 of the Revised Statutes, for which a
46 person is under duty to return to the chief administrator, from any
47 person or place in this State, with all the rights, privileges and

1 immunities conferred by law on an officer executing a writ of
2 replevin.

3 b. A licensee shall not be required to maintain any office hours
4 provided there is an agent present at the established place of
5 business.

6 c. The chief administrator may audit, inspect or investigate a
7 licensee to determine whether there exists any violation of the laws,
8 rules, or regulations governing the conduct of licensees. A licensee,
9 or its agent, shall be present at the established place of business on
10 the date and time of any audit, inspection or investigation which is
11 scheduled at least five business days in advance, in writing, by the
12 chief administrator. Nothing in this section shall be interpreted to
13 require a licensee, including the licensee's authorized signatory, to
14 be present at the established place of business except on the date
15 and time of an audit, inspection or investigation, as set forth in
16 section b. of this section.

17 d. A [licensed dealer] licensee shall keep and store all required
18 forms, papers, and records as the New Jersey Motor Vehicle
19 Commission may [by regulation] require at the licensed premises,
20 provided, however, that the required forms, papers, and records may
21 be temporarily removed from the premises of the licensee for any
22 business purpose, including, but not limited to, acquiring a motor
23 vehicle, certificate of origin, or certificate of ownership, by the
24 licensee. In the event a licensee operates multiple licensed
25 dealerships under common ownership or control, [such] the
26 required forms, papers, and records may be stored at a centralized
27 record-keeping facility.

28 e. In the event an unannounced audit, inspection or
29 investigation by the chief administrator of a licensee's established
30 place of business results in the finding of a violation of subsection
31 c. of this section, the chief administrator shall permit the licensee
32 three business days, from the time the notice of the proposed
33 violation is received by the licensee, to provide proof that the
34 licensee was in compliance with the provisions of subsection b. of
35 this section at the time of the unannounced audit or unannounced
36 inspection. The licensee shall not be subject to the imposition of a
37 fine, suspension of license, or revocation of license if the proof
38 provided by the license is determined to be sufficient by the chief
39 administrator.

40 (cf: P.L.2007, c.335, s.27)

41
42 18. Section 1 of P.L.1973, c. 308 (C.56:8-2.5) is amended to
43 read as follows:

44 1. a. It shall be an unlawful practice for any person to sell,
45 attempt to sell or offer for sale any merchandise at retail unless the
46 total selling price of [such] the merchandise is plainly marked by a
47 stamp, tag, label or sign either affixed to the merchandise or located
48 at the point where the merchandise is offered for sale.

1 b. A motor vehicle dealer shall not be in violation of subsection
2 a. of this section if the dealer maintains on any motor vehicle
3 offered for sale, the stamp, tag, label or sign originally affixed to
4 the motor vehicle by the dealer which sets forth the total selling
5 price of the motor vehicle as of the date it was first offered for sale
6 to the public and, thereafter, the dealer alters the total selling price
7 of the motor vehicle, provided:

8 (1) the altered total selling price for the motor vehicle is
9 advertised on the dealer's internet website; and

10 (2) at the time of sale, the dealer obtains a written and signed
11 confirmation from the consumer that the consumer was given access
12 to the dealer's website, was apprised of the advertised total selling
13 price on the dealer's website at the time of the sale, and the
14 consumer was apprised of the total selling price as of the date the
15 motor vehicle was first offered for sale to the public. A dealer shall
16 not sell any motor vehicle advertised on its website unless it is sold
17 at or below the advertised total selling price as of the date of its
18 sale, regardless of whether the consumer has knowledge of the
19 advertised total selling price.

20 As used in this subsection:

21 "Dealer" means a person who is actively engaged and licensed in
22 the business of buying, selling or exchanging new or used motor
23 vehicles at retail.

24 "Retail" means a sale that is not a wholesale sale, sale between
25 dealers, or sale to an owner or operator of a motor vehicle junk
26 business or motor vehicle junk yard, as defined in R.S.39:11-2, or
27 any other person or entity engaged in the business of dismantling,
28 destroying or recycling motor vehicles.

29 "Total selling price" includes all costs of a motor vehicle,
30 including documentary service fees, and all other fees, whether
31 optional or not, which are pre-printed on the Motor Vehicle Retail
32 Order, which are to be paid by the consumer, except State licensing
33 costs, registration fees, taxes and finance charges, provided the
34 dealer's advertisements include a statement that "prices include all
35 costs to be paid by a consumer, except for State licensing costs,
36 registration fees and taxes."

37 (cf: P.L.1973, c.308, s.1)

38
39 19. (New section) Sections 19 through 24 of
40 P.L. , c. (C.) (pending before the Legislature as this bill)
41 shall be known and may be cited as the "Used Car Buyers' Bill of
42 Rights."

43
44 20. (New section) It shall be an unlawful practice pursuant to
45 P.L.1960, c.39 (C.56:8-1 et seq.) for a used motor vehicle dealer, as
46 defined in R.S.39:10-2, to sell or offer for sale a used motor vehicle
47 as "certified" or any other similar descriptive term that implies the
48 motor vehicle complies with the terms of a used motor vehicle

1 certification program. Nothing herein shall be construed as
2 prohibiting the advertisement and sale of used motor vehicles as
3 “certified” by a program established by a motor vehicle
4 manufacturer for its franchised dealers.

5
6 21. (New section) a. It shall be an unlawful practice pursuant to
7 P.L.1960, c.39 (C.56:8-1 et seq.) for a used motor vehicle dealer to
8 sell a used motor vehicle without providing the consumer, at a price
9 equal to the dealer’s cost, a motor vehicle history report which is
10 dated the same date as the sale and signed by the consumer prior to
11 signing any contract of sale; provided, however, that the dealer shall
12 provide the motor vehicle history report free of charge to a
13 consumer buying a used motor vehicle “as is.”

14 b. There shall be a conclusive presumption that a dealer had no
15 knowledge of the existence of any fact not disclosed in the motor
16 vehicle history report if the dealer obtains a motor vehicle history
17 report signed by the consumer which is dated the same date as the
18 sale. This subsection shall not:

19 (1) create any legal duty upon a dealer related to the accuracy,
20 errors, or omissions of the motor vehicle history report;

21 (2) require a dealer to provide a consumer with any fact that
22 may be added to a motor vehicle history report after the dealer has
23 provided the report which is dated the same date as the sale and
24 signed by the consumer.

25 This section shall not abrogate or limit any disclosure obligation
26 imposed pursuant to any other law.

27
28 22. (New section) a. A dealer shall not sell or offer for sale a
29 used motor vehicle to any consumer without offering the consumer
30 a contract cancellation option agreement that allows the consumer
31 to cancel the contract within two business days and return the used
32 motor vehicle without cause; provided, however, the provisions of
33 this section shall not apply to a used motor vehicle having a
34 purchase price of \$40,000 or more. A consumer may elect to waive
35 the contract cancellation option provided that:

36 (1) the waiver is in writing; and

37 (2) the waiver is signed separate and apart from the buyer’s
38 order or other purchase agreement.

39 b. The fee for a contract cancellation option agreement for a
40 period of two business days shall not exceed the following:

41 (1) \$75 for a used motor vehicle with a cash price of \$5,000 or
42 less;

43 (2) \$150 for a used motor vehicle with a cash price of more than
44 \$5,000, but not more than \$10,000;

45 (3) \$250 for a used motor vehicle with a cash price of more than
46 \$10,000, but not more than \$30,000; or

47 (4) One percent of the purchase price for a used motor vehicle
48 with a cash price of more than \$30,000, but not more than \$40,000.

1 A consumer, as a result of a price negotiation, may purchase a
2 contract cancellation option agreement for a period greater than two
3 business days provided that the dealer complies with sections c.
4 through h. of this section.

5 c. A contract cancellation option agreement shall be contained
6 in a document separate from the buyer's order or other purchase
7 agreement for a used motor vehicle and shall contain, at a
8 minimum, the following:

9 (1) The name of the dealer and the consumer;

10 (2) A description and the Vehicle Identification Number of the
11 used motor vehicle purchased, the Vehicle Identification Number of
12 any motor vehicle the consumer conveyed to the dealer as a down
13 payment or trade-in, and the actual cash value assigned by dealer of
14 any motor vehicle the consumer conveyed to the dealer as a down
15 payment or trade-in which actual cash value is acknowledged and
16 agreed to by the consumer;

17 (3) A statement specifying the time within which the consumer
18 shall exercise the contract cancellation option and return the used
19 motor vehicle to the dealer. The dealer shall not specify a time that
20 is earlier than the dealer's close of business on the second business
21 day following the day on which the vehicle was originally delivered
22 to the consumer by the dealer;

23 (4) A statement that clearly and conspicuously specifies the
24 dollar amount of any restocking fee the consumer is required to pay
25 to the dealer to exercise the contract cancellation option.

26 The restocking fee shall not exceed: \$175 if the used motor
27 vehicle cash price is \$5,000 or less; \$350 if the used motor vehicle
28 cash price is more than \$5,000 and less than \$10,000; and \$500 if
29 the used motor vehicle cash price is \$10,000 or more. The dealer
30 shall apply the fee paid by the consumer for the contract
31 cancellation option agreement toward the restocking fee. The fee
32 for purchasing the contract cancellation option agreement shall not
33 otherwise be subject to setoff or refund;

34 (5) A statement specifying the maximum number of miles that
35 the used motor vehicle may be driven after its original delivery by
36 the dealer to the consumer to remain eligible for the contract
37 cancellation option. A dealer shall allow for the used motor vehicle
38 to be driven a minimum of 250 miles under the contract
39 cancellation option agreement;

40 (6) A statement that the contract cancellation option agreement
41 gives the consumer the right to cancel the contract and obtain a full
42 refund, minus the fee for exercising the contract cancellation
43 option; and that the right to cancel will apply only if, within the
44 time specified in the contract cancellation option agreement, the
45 following are personally delivered to the selling dealer by the
46 consumer:

47 (a) a written notice exercising the right to cancel the contract
48 signed by the consumer;

1 (b) any restocking fee specified in the contract cancellation
2 option agreement minus the fee for the contract cancellation option
3 agreement;

4 (c) the original contract cancellation option agreement, contract
5 for the used motor vehicle, and related documents, if the dealer
6 gave those original documents to the consumer;

7 (d) all original titling and registration documents for the used
8 motor vehicle, if the dealer gave those original documents to the
9 consumer; and

10 (e) the used motor vehicle, free of all liens and encumbrances,
11 other than any lien or encumbrance created by or incident to the
12 contract, any loan arranged by the dealer, or any purchase money
13 loan obtained by the consumer from a third party, and in the same
14 condition as when it was delivered by the dealer to the consumer,
15 except for reasonable wear and tear and any defect or mechanical
16 problem that manifests or becomes evident after delivery that was
17 not caused by the consumer, and which shall not have been driven
18 beyond the mileage limit specified in the contract cancellation
19 option agreement.

20 The contract cancellation option agreement may also provide that
21 the consumer will execute documents reasonably necessary to
22 effectuate the cancellation and refund and as reasonably required to
23 comply with this section; and

24 (7) At the bottom of the contract cancellation option agreement,
25 a statement that may be signed by the consumer to indicate the
26 consumer's election to exercise the right to cancel the contract
27 under the terms of the contract cancellation option agreement, and
28 the last date and time by which the option to cancel may be
29 exercised, followed by a line for the consumer's signature. A
30 particular form of statement is not required, but the following
31 statement is sufficient: "By signing below, I elect to exercise my
32 right to cancel the contract for the used motor vehicle described in
33 this agreement." The consumer's delivery of the contract
34 cancellation agreement to the dealer with the consumer's signature
35 following this statement shall constitute sufficient written notice
36 that the consumer is exercising the right to cancel a contract
37 pursuant to paragraph (6) of this subsection. The dealer shall
38 provide the consumer with the statement required by this paragraph
39 in duplicate to enable the consumer to return the signed cancellation
40 notice and retain a copy of the cancellation agreement.

41 d. (1) No later than 48 hours after which the consumer
42 exercises the right to cancel a contract under the contract
43 cancellation option agreement, the dealer shall cancel the contract
44 and provide the consumer with a full refund, including the
45 appropriate portion of the sales tax or other fees paid.

46 (2) If the consumer was not charged for the contract cancellation
47 option agreement, the dealer shall return to the consumer, no later
48 than 24 hours after the consumer exercises the right to cancel the

1 contract, any used motor vehicle the consumer conveyed to the
2 dealer as a down payment or trade-in. If the dealer sold or otherwise
3 transferred title to the used motor vehicle that was conveyed as a
4 down payment or trade-in, the full refund described in paragraph (1)
5 of this subsection shall include the actual cash value of the used
6 motor vehicle left as a down payment or trade-in.

7 (3) If the consumer was charged for the contract cancellation
8 option agreement, the dealer shall retain any motor vehicle the
9 consumer conveyed to the dealer as a down payment or trade-in
10 until the consumer exercises the right to cancel or the right to
11 cancel expires. If the consumer exercises the right to cancel the
12 contract, the dealer shall return to the consumer, no later than 48
13 hours after which the consumer exercises the right to cancel the
14 contract, any motor vehicle the consumer conveyed to the dealer as
15 a down payment or trade-in. If the dealer has inadvertently sold or
16 otherwise transferred title to the motor vehicle as the result of a
17 bona fide error, despite taking reasonable procedures to avoid that
18 error, the inadvertent sale or transfer of title shall not be deemed a
19 violation of this paragraph, and the full refund described in
20 paragraph (1) of this subsection shall include the actual cash value
21 of the motor vehicle conveyed as a down payment or trade-in.

22 e. If the dealer received a portion of the purchase price by
23 credit card, or other third-party payer on the consumer's account,
24 the dealer may refund that portion of the purchase price to the credit
25 card issuer or third-party payer for credit to the consumer's account.

26 f. Notwithstanding subsection a. of this section, a dealer is not
27 required to offer a contract cancellation option agreement if the
28 consumer has exercised this right with the dealer during the
29 immediately preceding 30 days. A dealer shall not be required to
30 give notice to a subsequent consumer that a used motor vehicle has
31 been returned pursuant to this section. This subsection shall not
32 abrogate or limit any disclosure obligation imposed pursuant to any
33 other law.

34 g. This section does not affect or alter the legal rights, duties,
35 obligations, or liabilities of the consumer, the dealer, or the dealer's
36 representatives, that would exist in the absence of a contract
37 cancellation option agreement. The consumer is the owner of a used
38 motor vehicle upon receipt of the vehicle from the dealer until it is
39 returned to the dealer pursuant to a contract cancellation option
40 agreement.

41 h. Nothing in this section is intended to affect the ability of a
42 consumer to rescind the contract or revoke acceptance under any
43 other law.

44 i. As used in this section, "cash price" excludes registration,
45 transfer, titling, license, and any optional business partnership
46 automation fees.

1 23. (New section) A dealer shall include with any contract to
2 lease or purchase a used motor vehicle a notice with a heading in at
3 least 12-point bold type and the text in at least 10-point bold type,
4 circumscribed by a line, immediately above the contract signature
5 line, that reads as follows:

6

7 THE LAW REQUIRES THE DEALER TO OFFER YOU A
8 CONTRACT CANCELLATION OPTION

9 New Jersey law requires a used motor vehicle dealer to offer you a
10 two-day contract cancellation option on used vehicles with a
11 purchase price of less than \$40,000, subject to certain statutory
12 conditions. This contract cancellation option is not available to the
13 purchaser of a motorcycle or an off-road vehicle. New Jersey law
14 does not provide for a cancellation period for the sale of a vehicle
15 with a purchase price of \$40,000 or more. Therefore, you cannot
16 later cancel this contract simply because you change your mind,
17 decide the vehicle costs too much, or wish you acquired a different
18 vehicle. After you sign below, you may only cancel this contract
19 with the agreement of the seller or for legal cause, such as fraud.
20 See the vehicle contract cancellation option agreement for details.

21

22 24. (New section) A dealer shall conspicuously display a
23 notice, not less than eight inches high and 10 inches wide, in each
24 sales office and /or cubicle of the dealer's established place of
25 business where written terms of specific sale or lease transactions
26 are provided to consumers, and in each room of the dealer's
27 established place of business where sale and lease contracts are
28 regularly executed, stating the following:

29

30 THE LAW REQUIRES THE DEALER TO OFFER YOU A
31 CONTRACT CANCELLATION OPTION

32 New Jersey law requires a used motor vehicle dealer to offer a two-
33 day contract cancellation option on used vehicles with a purchase
34 price of less than \$40,000, subject to certain statutory conditions.
35 This contract cancellation option requirement does not apply to the
36 sale of a motorcycle or an off-road vehicle. New Jersey law does
37 not provide for a cancellation period for vehicle lease contracts or
38 purchase contracts for vehicles with a purchase price of \$40,000 or
39 more. Therefore, you cannot later cancel a contract simply because
40 you change your mind, decide the vehicle costs too much, or wish
41 you acquired a different vehicle. After you sign a motor vehicle
42 purchase or lease contract, it may only be canceled with the
43 agreement of the seller or lessor or for legal cause, such as fraud.
44 See the vehicle contract cancellation option agreement for details.

45

46 25. This act shall take effect on the first day of the seventh
47 month next following the date of enactment.

STATEMENT

This bill creates new requirements for motor vehicle dealers and establishes new consumer protections.

Under the bill, a licensed new and used motor dealer or a licensed used motor vehicle dealer is permitted to buy, deal in, or sell used motor vehicles at the following locations:

- (1) the licensee's established place of business;
- (2) the place of business or residence of a buyer;
- (3) the place of business of a licensee; or
- (4) a place of business authorized to conduct wholesale auctions of motor vehicles.

The bill defines a "new and used motor vehicle dealer" as the agent, distributor or authorized dealer of a manufacturer of a new motor vehicle who is authorized to sell new and used motor vehicles pursuant to a franchise agreement, and who has an established place of business. A "used motor vehicle dealer" means a person engaged in the business of selling, buying or dealing in used motor vehicles to a buyer at retail or as a wholesale motor vehicle dealer, and who has an established place of business and is not authorized to sell motor vehicles pursuant to a franchise agreement.

The bill allows licensees to arrange to buy, deal in or sell motor vehicles over the internet or telephone provided that all documentation related to the transaction is executed at one of the locations provided above.

The bill requires applicants for a license to submit a certificate of insurance covering the period of the prospective license term demonstrating liability insurance covering all vehicles owned by the licensee.

The bill revises the procedures the Chief Administrator of the New Jersey Motor Vehicle Commission (MVC) is required to follow to impose any fine or suspend a dealer's license.

The bill requires certain used motor vehicle dealers to pay into the Consumer Used Car Dealer Protection Fund, which is designed to reimburse purchasers who have suffered a loss due to fraudulent conduct of a used motor vehicle dealer. The fund is to be used to satisfy unpaid judgments of consumers of used motor vehicle dealers.

The bill requires applicants for licensure and used motor vehicle dealers to pay an annual fee of \$250, which would be deposited into the fund.

The bill requires applicants for a used motor vehicle license to obtain and file with the chief administrator a bond in the amount of \$50,000. The bond is required to come from a corporate surety licensed to do business in the State and approved by the Attorney General. The bond is required to be conditioned on a statement by the applicant that the applicant will not practice fraud or make any

1 fraudulent representation in connection with the sale or lease of a
2 used motor vehicle, or violate any provision of chapter 10 of Title
3 39 of the Revised Statutes in the conduct of the applicant's
4 business.

5 A used motor vehicle dealer who is not subject to a claim against
6 the dealer's bond or against the fund for three consecutive years is
7 required to pay an annual \$100 fee and would not be required to pay
8 an annual \$250 annual fee or hold the \$50,000 bond.

9 The bill provides that consumers that have a claim against the
10 dealer and the dealer's bond may recover damages awarded to the
11 consumer by a court of competent jurisdiction against the dealer if a
12 consumer suffers any of the following:

13 (1) loss or damage in connection with the purchase or lease of a
14 used motor vehicle by reason of fraud or fraudulent representation
15 by a dealer or a dealer's salespersons acting within the scope of
16 their employment;

17 (2) loss or damage by reason of the violation by a dealer or the
18 dealer's salesperson of any provision of chapter 10 of Title 39 of the
19 Revised Statutes in connection with the purchase or lease of a used
20 motor vehicle; and

21 (3) loss or damage resulting from a dealer's breach of an
22 extended service contract.

23 The bill provides that a judgment creditor may file a verified
24 claim with the chief administrator, requesting payment from the
25 fund of the amount unpaid on a judgment whenever any person is
26 awarded a final judgment in a court of competent jurisdiction in the
27 State for:

28 (1) any loss or damage in connection with the purchase or lease
29 of a used motor vehicle by reason of any fraud or fraudulent
30 representation by a dealer participating in the fund; or

31 (2) any loss or damage by reason of a violation by a dealer
32 participating in the fund of any of the provisions of chapter 10 of
33 Title 39 of the Revised Statutes in connection with the purchase or
34 lease of a used motor vehicle.

35 The bill sets limits on the maximum amounts of damages that
36 may be recovered from the fund by judgement creditors in various
37 circumstances.

38 The bill provides that the chief administrator is required to
39 immediately notify a used motor vehicle dealer in writing of any
40 payment to a claimant and request full reimbursement. The chief
41 administrator is required to suspend the license of any dealer who
42 fails to reimburse or make specific arrangements to reimburse the
43 chief administrator within 30 days of the notification. Any dealer
44 whose license is suspended is not be eligible for reinstatement until
45 the amount paid from the fund, plus interest, is repaid in full.

46 The bill provides that an applicant for renewal of a used motor
47 vehicle dealer's license may elect to obtain and continuously
48 maintain a bond in the amount of \$100,000 in lieu of participation

1 in the fund, if the applicant has not been the subject of a certain
2 claims for a three year period. The bill establishes procedures for
3 consumers to follow in filing claims and recovering damages
4 against a dealer's continuous bond.

5 The bill requires any used motor vehicle dealer and any sales
6 person or financing employee of a used motor vehicle dealer to
7 register with the MVC. These employees are required to register by
8 submitting certain information on forms provided by the chief
9 administrator, and submit a disclosure statement to the chief
10 administrator stating whether the employee has been convicted of
11 certain crimes.

12 The bill provides that in the event of an unannounced audit,
13 inspection or investigation by the MVC of the established place of
14 business of the dealer which results in the finding of a record-
15 keeping violation, the chief administrator must permit the dealer
16 three business days, from the time the notice of violation is
17 received, to provide proof that the dealer was in compliance with
18 the law at the time of the unannounced audit, inspection or
19 investigation. The dealer will not be subject to the imposition of a
20 fine, suspension of license, or revocation of license if the dealer
21 provides proof which is determined to be sufficient by the chief
22 administrator.

23 The bill establishes a "Used Car Buyers' Bill of Rights," which
24 requires dealers to offer contract cancellation option agreements for
25 certain used vehicles, and establishes additional requirements for
26 dealers selling used vehicles.

27 This bill makes it an unlawful practice under the consumer fraud
28 act for a dealer to sell a consumer a used vehicle deemed to be
29 "certified" or any other similar descriptive term that implies the
30 vehicle complies with the terms of a used vehicle certification
31 program under certain circumstances.

32 The bill requires that a dealer offer a consumer a contract
33 cancellation option agreement that allows the consumer to return
34 the used vehicle without cause, if the used motor vehicle has a
35 purchase price of less than \$40,000. The contract cancellation
36 option agreement gives the consumer the right to cancel the contract
37 and obtain a refund. The bill sets forth the information to be
38 contained in any contract cancellation option agreement.

39 Under the bill, a dealer would be required to apply toward the
40 restocking fee the price paid by the consumer for the contract
41 cancellation option agreement. A dealer is also required to give
42 notice at its business location and in the contract for the used
43 vehicle that there is no cancellation period, sometimes referred to as
44 a "cooling-off" period, unless a consumer obtains a contract
45 cancellation option.

46 The bill provides that the fee for the contract cancellation option
47 agreement is not to exceed the following: (1) \$75 for a used motor
48 vehicle with a cash price of \$5,000 or less; (2) \$150 for a used

1 motor vehicle with a cash price of between \$5,000.01 and \$10,000;
2 (3) \$250 for a used motor vehicle with a cash price of between
3 \$10,000.01 and \$30,000; or (4) one percent of the purchase price
4 for a used motor vehicle with a cash price of \$30,000.01 to \$40,000.
5 No later than 48 hours after a consumer exercises the right to
6 cancel a contract under the agreement, the dealer is required to
7 cancel the contract and provide the consumer with a refund,
8 including the appropriate portion of the sales tax or other fees paid.
9 Within this same time frame, the dealer would be required to return
10 to the consumer any used vehicle the consumer conveyed to the
11 dealer as a down payment or trade-in. If the dealer sold or
12 otherwise transferred title to that used vehicle, the refund would
13 include the fair market value of that used vehicle or its value as
14 stated in the contract, whichever is greater.