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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. **1675**

March 5, 2007

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The bill was read for the first time and referred to the Committee on Commerce and Labor

A bill for an act

relating to commerce; enacting a car buyers' bill of rights; requiring disclosures; capping dealer compensation for vehicle financing; regulating the sale of "certified" used motor vehicles; requiring a cancellation option on purchase of a used motor vehicle; amending Minnesota Statutes 2006, sections 53C.01, by adding subdivisions; 53C.08, subdivision 4, by adding a subdivision; 297B.01, subdivision 8; 325F.662, subdivision 10, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 53C.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2006, section 53C.01, is amended by adding a subdivision to read:

Subd. 6a. **Regulation Z.** "Regulation Z" means a rule, regulation, or interpretation promulgated by the Board of Governors of the Federal Reserve System under the federal Truth in Lending Act, as amended (United States Code, title 15, section 1601, et seq.), and an interpretation or approval issued by an official or employee of the Federal Reserve System duly authorized by the board under the Truth in Lending Act, as amended, to issue the interpretations or approvals.

Sec. 2. Minnesota Statutes 2006, section 53C.01, is amended by adding a subdivision to read:

Subd. 12a. **Service contract.** "Service contract" means a motor vehicle service contract as defined in section 65B.29.

Sec. 3. Minnesota Statutes 2006, section 53C.01, is amended by adding a subdivision to read:

2.1 Subd. 12b. **Surface protection product.** "Surface protection product" means the
2.2 following products installed by the seller after the motor vehicle is sold:

2.3 (1) undercoating;

2.4 (2) rustproofing;

2.5 (3) chemical or film paint sealant or protectant; or

2.6 (4) chemical sealant or stain inhibitor for carpet and fabric.

2.7 Sec. 4. Minnesota Statutes 2006, section 53C.01, is amended by adding a subdivision
2.8 to read:

2.9 Subd. 12c. **Theft deterrent device.** "Theft deterrent device" means the following
2.10 devices installed by the seller after the motor vehicle is sold:

2.11 (1) a vehicle alarm system;

2.12 (2) a window etch product;

2.13 (3) a body part marking product;

2.14 (4) a steering lock;

2.15 (5) a pedal or ignition lock; or

2.16 (6) a fuel or ignition kill switch.

2.17 Sec. 5. Minnesota Statutes 2006, section 53C.08, is amended by adding a subdivision
2.18 to read:

2.19 Subd. 1a. **Disclosures required.** Prior to the execution of a retail installment
2.20 contract, the seller shall provide to a buyer, and obtain the buyer's signature on, a written
2.21 disclosure that sets forth the following information:

2.22 (1) a description and the total price of all items sold in the following categories if
2.23 the contract includes a charge for the item:

2.24 (i) a service contract;

2.25 (ii) an insurance product;

2.26 (iii) a debt cancellation agreement;

2.27 (iv) a theft deterrent device; or

2.28 (v) a surface protection product;

2.29 (2) the amount that would be calculated under the contract as the regular installment
2.30 payment if charges for the items referenced under clause (1) are not included in the
2.31 contract. The amount disclosed under this subdivision must be labeled "Installment
2.32 Payment EXCLUDING Listed Items";

2.33 (3) the amount that would be calculated under the contract as the regular installment
2.34 payment if charges for the items referenced under clause (1) are included in the contract.

3.1 The amount disclosed under this subdivision must be labeled "Installment Payment
 3.2 INCLUDING Listed Items"; and

3.3 (4) the disclosures required under this subdivision must be in at least ten-point type
 3.4 and must be contained in a document that is separate from the retail installment contract
 3.5 and any other purchase documents.

3.6 Sec. 6. Minnesota Statutes 2006, section 53C.08, subdivision 4, is amended to read:

3.7 Subd. 4. **Contract transferability.** Except as limited under section 53C.085, any
 3.8 sales finance company hereunder may purchase or acquire from any retail seller any
 3.9 retail installment contract on such terms and conditions as may be mutually agreed upon
 3.10 between them.

3.11 Sec. 7. **[53C.083] CREDIT SCORES.**

3.12 (a) A retail seller that obtains a credit reporting product known as a "credit score"
 3.13 from a consumer reporting agency, as defined in section 13C.001, subdivision 4, for
 3.14 use in connection with an application for credit initiated by a buyer for the purchase or
 3.15 lease of a motor vehicle, shall provide, prior to the sale or lease of the motor vehicle, the
 3.16 following information to the buyer in at least ten-point boldface type on a document
 3.17 separate from the sale or lease contract:

3.18 (1) the credit score obtained and used by the retail seller and the name of the credit
 3.19 reporting agency providing the credit score to the retail seller;

3.20 (2) the range of possible credit scores established by the credit reporting agency
 3.21 that provided the credit score; and

3.22 (3) the following notice, which must include the name, address, and telephone
 3.23 number of each credit reporting agency providing a credit score that was obtained and
 3.24 used by the retail seller:

3.25 "NOTICE TO MOTOR VEHICLE CREDIT APPLICANT

3.26 If the dealer obtains and uses a credit score from a consumer reporting agency in
 3.27 connection with your application to finance the acquisition of a motor vehicle, the dealer
 3.28 must disclose the score to you.

3.29 The credit score is a computer generated summary calculated by a consumer
 3.30 reporting agency at the time the dealer requests the score and is based on information
 3.31 the consumer reporting agency has on file. The scores are based on data about your
 3.32 credit history and payment patterns. Credit scores are important because they are used
 3.33 in determining whether to extend credit. The score may also be used to determine the
 3.34 annual percentage rate you may be offered. Credit scores can change over time, depending

4.1 on your conduct, how your credit history and payment patterns change, and how credit
 4.2 scoring technologies change. Credit scores may also vary from one credit reporting
 4.3 agency to another.

4.4 If you have questions about your credit score, contact the consumer reporting agency
 4.5 at the address and telephone number provided. The consumer reporting agency does not
 4.6 participate in the decision to take any action on your application for credit and is unable to
 4.7 provide you with specific reasons for any decision on the credit application.

4.8 If you have questions concerning credit terms relative to your purchase or lease of
 4.9 a motor vehicle, ask the dealer."

4.10 (b) This section does not require a dealer to provide more than one disclosure for
 4.11 each purchase or lease transaction.

4.12 **Sec. 8. [53C.085] CONSIDERATION FOR ASSIGNMENT OF RETAIL**
 4.13 **INSTALLMENT CONTRACT.**

4.14 (a) In consideration of the assignment of a retail installment contract, the seller shall
 4.15 not receive or accept from the assignee any payment or credit based upon any amount
 4.16 collected or received, or to be collected or received, under the contract as a finance charge
 4.17 except to the extent the payment or credit does not exceed the amount that would be
 4.18 calculated in accordance with Regulation Z, whether or not Regulation Z applies to the
 4.19 contract, as the contract's finance charge using, for the purposes of the calculation, an
 4.20 annual percentage rate equal to 2.5 percent for a contract having an original scheduled
 4.21 term of 60 monthly payments or less or two percent for a contract having an original
 4.22 scheduled term of more than 60 monthly payments.

4.23 (b) Paragraph (a) does not apply in the following circumstances:

4.24 (1) an assignment that is with full recourse or under other terms requiring the seller
 4.25 to bear the entire risk of financial performance of the buyer;

4.26 (2) an assignment that is more than six months following the date of the retail
 4.27 installment contract; and

4.28 (3) isolated instances resulting from bona fide errors that would otherwise constitute
 4.29 a violation of paragraph (a) if the seller maintains reasonable procedures to guard against
 4.30 any errors and promptly, upon notice of the error, remits to the assignee any consideration
 4.31 received in excess of that permitted by paragraph (a).

4.32 **Sec. 9. Minnesota Statutes 2006, section 297B.01, subdivision 8, is amended to read:**

4.33 **Subd. 8. Purchase price.** (a) "Purchase price" means the total consideration valued
 4.34 in money for a sale, whether paid in money or otherwise. The purchase price excludes the

5.1 amount of a manufacturer's rebate paid or payable to the purchaser. If a motor vehicle
5.2 is taken in trade as a credit or as part payment on a motor vehicle taxable under this
5.3 chapter, the credit or trade-in value allowed by the person selling the motor vehicle shall
5.4 be deducted from the total selling price to establish the purchase price of the vehicle
5.5 being sold and the trade-in allowance allowed by the seller shall constitute the purchase
5.6 price of the motor vehicle accepted as a trade-in. The purchase price in those instances
5.7 where the motor vehicle is acquired by gift or by any other transfer for a nominal or no
5.8 monetary consideration shall also include the average value of similar motor vehicles,
5.9 established by standards and guides as determined by the motor vehicle registrar. The
5.10 purchase price in those instances where a motor vehicle is manufactured by a person who
5.11 registers it under the laws of this state shall mean the manufactured cost of such motor
5.12 vehicle and manufactured cost shall mean the amount expended for materials, labor,
5.13 and other properly allocable costs of manufacture, except that in the absence of actual
5.14 expenditures for the manufacture of a part or all of the motor vehicle, manufactured costs
5.15 shall mean the reasonable value of the completed motor vehicle.

5.16 (b) The term "purchase price" shall not include the portion of the value of a motor
5.17 vehicle due solely to modifications necessary to make the motor vehicle disability
5.18 accessible.

5.19 (c) The term "purchase price" shall not include the transfer of a motor vehicle by
5.20 way of gift between a husband and wife or parent and child, or to a nonprofit organization
5.21 as provided under subdivision 7, paragraph (e), nor shall it include the transfer of a motor
5.22 vehicle by a guardian to a ward when there is no monetary consideration and the title to
5.23 such vehicle was registered in the name of the guardian, as guardian, only because the
5.24 ward was a minor.

5.25 (d) The term "purchase price" shall not include the transfer of a motor vehicle as a
5.26 gift between a foster parent and foster child. For purposes of this subdivision, a foster
5.27 relationship exists, regardless of the age of the child, if (1) a foster parent's home is or was
5.28 licensed as a foster family home under Minnesota Rules, parts 9545.0010 to 9545.0260,
5.29 and (2) the county verifies that the child was a state ward or in permanent foster care.

5.30 (e) There shall not be included in "purchase price" the amount of any tax imposed by
5.31 the United States upon or with respect to retail sales whether imposed upon the retailer or
5.32 the consumer.

5.33 (f) The term "purchase price" does not include that portion of the sales price returned
5.34 to the purchaser of a used motor vehicle under section 325F.662, subdivision 8b.

6.1 Sec. 10. Minnesota Statutes 2006, section 325F.662, is amended by adding a
6.2 subdivision to read:

6.3 Subd. 8a. **Certified motor vehicle.** (a) It is unlawful for a dealer to advertise for
6.4 sale or sell a used motor vehicle as "certified" or use any similar descriptive term in
6.5 the advertisement or the sale of a used motor vehicle that implies the vehicle has been
6.6 certified to meet the terms of a used motor vehicle certification program if any of the
6.7 following apply:

6.8 (1) the dealer knows or should have known that the odometer on the vehicle does not
6.9 indicate actual mileage, has been rolled back or otherwise altered to show fewer miles, or
6.10 replaced with an odometer showing fewer miles than actually driven;

6.11 (2) the dealer knows or should have known that the vehicle was reacquired by the
6.12 vehicle's manufacturer or a dealer pursuant to state or federal warranty laws;

6.13 (3) the title to the vehicle has been inscribed with the notation "damaged," "flood,"
6.14 "junk," "lemon law buyback," "manufacturer repurchase," "nonrepairable," "rebuilt,"
6.15 "reconditioned," "salvage," or similar title designation required by this state or another
6.16 state;

6.17 (4) the vehicle has sustained damage in an impact, fire, or flood, that substantially
6.18 impairs the use or safety of the vehicle;

6.19 (5) the dealer knows or should have known that the vehicle has sustained frame
6.20 damage;

6.21 (6) prior to sale, the dealer fails to provide the buyer with a completed inspection
6.22 report indicating all the components inspected;

6.23 (7) the dealer disclaims any warranties of merchantability on the vehicle;

6.24 (8) the vehicle is sold "AS IS"; or

6.25 (9) the term "certified" or any similar descriptive term is used in any manner that
6.26 is untrue or misleading.

6.27 (b) This section does not abrogate or limit any disclosure obligation imposed by
6.28 any other law.

6.29 Sec. 11. Minnesota Statutes 2006, section 325F.662, is amended by adding a
6.30 subdivision to read:

6.31 Subd. 8b. **Contract cancellation option.** (a) A dealer shall not sell a used motor
6.32 vehicle to a consumer without granting the consumer a contract cancellation option that
6.33 allows the consumer to return the vehicle without cause and without cost, except for a
6.34 restocking fee as permitted by this subdivision. This subdivision does not apply to a used
6.35 motor vehicle having a purchase price of \$40,000 or more.

7.1 (b) The contract cancellation option must be contained in a document separate from
7.2 the retail installment contract or other vehicle purchase agreement and must contain, at a
7.3 minimum, the following:

7.4 (1) the name of the dealer and the consumer;

7.5 (2) a description and the vehicle identification number of the vehicle purchased;

7.6 (3) a statement specifying the time within which the consumer must exercise the
7.7 right to cancel the purchase under the contract cancellation option and return the vehicle
7.8 to the dealer. The dealer shall not specify a time that is earlier than the dealer's close
7.9 of business on the second day following the day on which the vehicle was originally
7.10 delivered to the consumer by the dealer;

7.11 (4) a statement that clearly and conspicuously specifies the dollar amount of any
7.12 restocking fee the buyer must pay to the dealer to exercise the right to cancel the purchase
7.13 under the contract cancellation option. The restocking fee must not exceed \$175 if the
7.14 vehicle's cash price is \$5,000 or less, \$350 if the vehicle's cash price is less than \$10,000
7.15 but more than \$5,000, and \$500 if the vehicle's cash price is \$10,000 or more;

7.16 (5) a statement specifying the maximum number of miles that the vehicle may be
7.17 driven after its original delivery by the dealer to the consumer to remain eligible for
7.18 cancellation under the contract cancellation option. A dealer shall not specify fewer than
7.19 250 miles in the contract cancellation option;

7.20 (6) a statement that the contract cancellation option gives the consumer the right to
7.21 cancel the purchase and obtain a full refund; and that the right to cancel will apply only if,
7.22 within the time specified in the contract cancellation option, the following are personally
7.23 delivered to the dealer by the consumer:

7.24 (i) a written notice exercising the right to cancel the purchase signed by the
7.25 consumer;

7.26 (ii) any restocking fee specified in the contract cancellation option;

7.27 (iii) the original contract cancellation option document and vehicle purchase contract
7.28 and related documents, if the dealer gave those original documents to the consumer;

7.29 (iv) all original vehicle titling and registration documents, if the dealer gave those
7.30 original documents to the consumer; and

7.31 (v) the vehicle, free of all liens and encumbrances other than any lien or
7.32 encumbrance created by or incident to the sales contract, any loan arranged by the dealer
7.33 or any purchase money loan obtained by the consumer from a third party, and in the same
7.34 condition as when it was delivered by the dealer to the consumer, reasonable wear and tear
7.35 and any defect or mechanical problem that manifests or becomes evident after delivery
7.36 that was not caused by the buyer excepted, and which must not have been driven beyond

8.1 the mileage limit specified in the contract cancellation option. The agreement may also
8.2 provide that the consumer will execute documents reasonably necessary to effectuate the
8.3 cancellation and refund and as reasonably required to comply with applicable law; and

8.4 (7) at the bottom of the contract cancellation option document, a statement that
8.5 may be signed by the consumer to indicate the consumer's election to exercise the
8.6 right to cancel the purchase under the terms of the contract cancellation option, and
8.7 the last date and time by which the option to cancel may be exercised, followed by a
8.8 line for the consumer's signature. A particular form of statement is not required, but
8.9 the following statement is sufficient: "By signing below, I elect to exercise my right to
8.10 cancel the purchase of the vehicle described in this agreement." The consumer's delivery
8.11 of the contract cancellation option document to the dealer with the consumer's signature
8.12 following this statement shall constitute sufficient written notice exercising the right to
8.13 cancel the purchase. The dealer shall provide the consumer with the statement required
8.14 by this paragraph in duplicate to enable the consumer to return the signed contract
8.15 cancellation document and retain a copy of the contract cancellation document.

8.16 (c)(1) No later than the second day following the day on which the consumer
8.17 exercises the right to cancel the purchase in compliance with the contract cancellation
8.18 option, the dealer shall cancel the contract and provide the consumer with a full refund; and

8.19 (2) the dealer shall return to the consumer, no later than the day following the day
8.20 on which the consumer exercises the right to cancel the purchase, any motor vehicle
8.21 the consumer left with the dealer as a downpayment or trade-in. If the dealer has sold
8.22 or otherwise transferred title to the motor vehicle that was left as a downpayment or
8.23 trade-in, the full refund described in clause (1) shall include the fair market value of the
8.24 motor vehicle left as a downpayment or trade-in, or its value as stated in the sale contract
8.25 or purchase order, whichever is greater.

8.26 (d) If the dealer received a portion of the purchase price by credit card, or other
8.27 third-party payer on the consumer's account, the dealer may refund that portion of the
8.28 purchase price to the credit card issuer or third-party payer for credit to the consumer's
8.29 account.

8.30 (e) Notwithstanding paragraph (a), a dealer is not required to grant a contract
8.31 cancellation option to an individual who exercised the individual's right to cancel the
8.32 purchase of a vehicle from the dealer pursuant to a contract cancellation option during the
8.33 immediately preceding 30 days or to an individual that has exercised a purchase option on
8.34 a vehicle the individual has previously leased. A dealer is not required to give notice to a
8.35 subsequent consumer of the return of a vehicle under this section. This subdivision does
8.36 not abrogate or limit any disclosure obligation imposed by any other law.

9.1 (f) This subdivision does not affect or alter the legal rights, duties, obligations, or
9.2 liabilities of the consumer, the dealer, or the dealer's agents or assigns, that would exist in
9.3 the absence of a contract cancellation option. The consumer is the owner of the vehicle
9.4 when the consumer takes delivery until the vehicle is returned pursuant to a contract
9.5 cancellation option, and the existence of a contract cancellation option must not impose
9.6 permissive user liability on the dealer under section 169.09, subdivision 5a, or otherwise.

9.7 Sec. 12. Minnesota Statutes 2006, section 325F.662, subdivision 10, is amended to
9.8 read:

9.9 Subd. 10. **Limitation on actions.** A private civil action brought by a consumer
9.10 under this section with respect to a warranty claim must be commenced within one year
9.11 of the expiration of the express warranty.