

Requested amendment to AB 228

Submitted by: John P. Sande, III on behalf of Nevada Franchised Automobile Dealers Association and by John P. Sande, IV on behalf of the Payment Assurance Technology Association

Section 1. Chapter 598 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In connection with the retail installment sale, loan, or lease of a vehicle under this chapter, it shall be a deceptive trade practice under NRS 482.554 and NRS 598.915 to 598.925 for a creditor, to:

A. Install or use electronic tracking technology in a motor vehicle to obtain or record the location of the vehicle unless the creditor notifies the consumer in a written disclosure provided at the time of the transaction that the vehicle is equipped with electronic tracking technology and:

(1) The electronic tracking technology is used by the creditor to verify and maintain the operational status of the tracking technology, to service the retail installment contract, loan, or lease, or to locate the vehicle for repossession or recovery; or

(2) The electronic tracking technology is used as an optional service elected by the consumer and both of the following conditions are met:

(a) The agreement to utilize electronic tracking technology is optional and is not a condition of the retail installment contract, loan, or lease.

(b) The consumer is permitted to cancel the optional service at any point without affecting the retail installment contract, loan, or lease.

B. Install or use starter interrupt technology to disable a motor vehicle, unless:

(1) The creditor provides the consumer written disclosure at the time the parties enter into the transaction that:

- (a) The motor vehicle is equipped with starter interrupt technology, which the creditor can use to disable the starter of the vehicle remotely;*
 - (b) The creditor shall activate the starter interrupt technology as set forth in section (4)(c), below; and*
 - (c) The name, address, and toll-free telephone number of the creditor for the purposes of communicating directly with the creditor concerning the security interest in the motor vehicle and the transaction.*
- (2) The consumer receives no less than 48 hours notice before the starter interrupt technology disables the vehicle; and*
- (3) In the event of an emergency, the consumer will be provided the ability to start a disabled motor vehicle for a period of not less than 24 hours.*

- 2. Creditor must obtain the consumer's consent to the use of electronic tracking technology and starter interrupt technology by signing the written disclosure described above.*

- 3. The consumer shall not be charged a fee for the installation or use of the electronic tracking technology or starter interrupt technology unless the consumer purchases optional services offered by the creditor.*

- 4. The use of the starter interrupt technology in a motor vehicle is prohibited if:*
 - (a) Disablement of the motor vehicle will occur while the engine is running;*
 - (b) The use of the starter interrupt technology causes an audible warning which lasts longer than 20 seconds upon starting or shutting off the engine of the motor vehicle;*
 - (c) If a scheduled payment is unpaid for less than 10 days for the first instance of late payment, or less than 5 days for any subsequent payment or for any other default under the retail installment contract, loan, or lease.*

5. *A failure to comply with any provision of this section may be awarded statutory damages not exceeding \$1,000.*
6. *As used in this section, unless the context otherwise requires:*
- (a) *“Creditor” means a lender, dealer, as defined in NRS 482.020, or long-term lessor, as defined in NRS 482.053, or any assignee of the lender, dealer or long-term lessor of a motor vehicle.*
- (b) *“Consumer” means a borrower, retail buyer, or lessee who purchases or leases a motor vehicle primarily for personal, family or household use.*
- (c) *“Dealer” means a person who is actively engaged in the business of buying, selling, exchanging, or leasing new or used motor vehicles at retail and who has an established place of business.*
- (d) *“Electronic tracking technology” means global positioning satellite or similar technology used to obtain or record the location of a motor vehicle.*
- (e) *“Retail installment contract” has the meaning ascribed to it in NRS 97.105.*
- (f) *“Starter interrupt technology” means technology used to remotely disable the starter of a motor vehicle.*
- (g) *“Transaction” means a retail installment sale, loan or lease between a Creditor and a consumer, as applicable, for purchase, refinancing or lease of a motor vehicle, or the reinstatement of a purchase, refinance or lease of a motor vehicle.*

Sec. 2. NRS 97.299 is hereby amended to read as follows:

1. The Commissioner of Financial Institutions shall prescribe, by regulation, forms for the application for credit and **retail installment** contracts to be used in the sale of vehicles if:
 - (a) The sale involves the taking of a security interest to secure all or a part of the purchase price of the vehicle;
 - (b) The application for credit is made to or through the seller of the vehicle;
 - (c) The seller is a dealer; and

(d) The sale is not a commercial transaction.

2. The *application for credit and installment contracts* ~~[forms]~~ prescribed pursuant to subsection 1 ~~[must meet the requirements of NRS 97.165,]~~ must be accepted and acted upon by any lender to whom the application for credit is made and, in addition to the information required in NRS 97.185 and required to be disclosed in such a transaction by federal law, must:

(a) Identify and itemize the items embodied in the cash sale price, including the amount charged for a contract to service the vehicle after it is purchased.

(b) In specifying the amount of the buyer's down payment, identify the amounts paid in money and allowed for property given in trade and the amount of any manufacturer's rebate applied to the down payment.

(c) Contain a description of any property given in trade as part of the down payment.

(d) Contain a description of the method for calculating the unearned portion of the finance charge upon prepayment in full of the unpaid total of payments as prescribed in NRS 97.225.

(e) Contain a provision that default on the part of the buyer is only enforceable to the extent that:

(1) The buyer fails to make a payment as required by the agreement; or

(2) The prospect of payment, performance or realization of collateral is significantly impaired. The burden of establishing the prospect of significant impairment is on the seller.

(f) Include the following notice in at least 10-point bold type:

NOTICE TO BUYER

Do not sign this agreement before you read it or if it contains any blank spaces. You are entitled to a completed copy of this agreement. If you pay the amount due before the scheduled date of maturity of the indebtedness and you are not in default in the terms of the contract for more than 2 months, you are entitled to a refund of the unearned portion of the finance charge. If you fail to perform your obligations

under this agreement, the vehicle may be repossessed and you may be liable for the unpaid indebtedness evidenced by this agreement.

3. The Commissioner shall arrange for or otherwise cause the translation into Spanish of the forms prescribed pursuant to subsection 1.

4. If a change in state or federal law requires the Commissioner to amend the forms prescribed pursuant to subsection 1, the Commissioner need not comply with the provisions of chapter 233B of NRS when making those amendments.

5. As used in this section:

(a) "Commercial transaction" means any sale of a vehicle to a buyer who purchases the vehicle solely or primarily for commercial use or resale.

(b) "Dealer" has the meaning ascribed to it in NRS 482.020.

Sec. 3. This act becomes effective upon passage and approval for the purposes of adopting any regulation or performing any preparatory administrative tasks that are necessary to carry out the provisions of this act, and on October 1, 2015, for all other purposes.