

SENATE BILL REPORT

SB 5119

AS OF FEBRUARY 3, 1993

Brief Description: Requiring a three-day rescission period after the purchase or lease of a motor vehicle.

SPONSORS: Senators A. Smith and Rinehart

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Jon Carlson (786-7459)

Hearing Dates: February 5, 1993

BACKGROUND:

Under current law, a buyer has the right to cancel a retail installment transaction if it was entered into by the buyer and solicited in person or through a commercial phone solicitation by the seller at a place other than the seller's address. The notice of cancellation must be sent to the seller's place of business not later than midnight of the third day following the date the buyer signs the contract or charge agreement. Similar "cooling-off" periods are allowed for certain future service contracts, such as camping resort or health studio services contracts.

The inexperience of the average non-commercial consumer distinguishes the purchase of a car from the usual array of routine consumer transactions. At present, consumers do not have the right to cancel transactions involving the purchase or lease of a new or used motor vehicle. A cooling-off period with regard to motor vehicle transactions would allow the consumer time to reflect upon a major purchase after often extended and emotional negotiations have occurred.

SUMMARY:

A consumer may rescind the purchase or lease of a new or used vehicle from a dealer until midnight of the third business day following completion of the transaction or the delivery of the notification and rescission forms, whichever is later.

No more than seven business days may elapse following completion of the transaction or delivery of the notification and rescission forms, whichever is later, before the vehicle is returned. If the vehicle is not returned within seven business days, the purchaser or lessee loses his or her rescission rights.

In order to rescind, the consumer must deliver either written notification or the motor vehicle to the seller or lessor, and pay a rescission fee equal to 1 percent of the purchase price

or \$50, whichever is more. The rescission fee may be deducted from any refund of money on the purchase or lease price of the motor vehicle.

In addition, the vehicle must: 1) have less than 200 miles of additional mileage from what existed on the date of the purchase or lease agreement or delivery of the notification and rescission forms, whichever is later; and 2) not have any damage, other than normal wear and tear, that was not present when the vehicle was initially delivered to the consumer. A seller or lessor may raise as an affirmative defense to rescission that the vehicle has damage, other than normal wear and tear, which was not present at the time of delivery.

The seller or lessor must return all moneys, trade-in vehicles, or other property given as down payment within ten days after notification of rescission and delivery of the motor vehicle to the seller or lessor. If a trade-in vehicle is transferred prior to notification, the seller or lessor must pay the buyer or lessee the amount of money credited for the trade-in.

The rescission rights may not be waived, limited, or disclaimed by agreement. A violation of the rescission provisions is an unfair or deceptive act and an unfair method of competition for purposes of applying the Consumer Protection Act.

Sellers and lessors of motor vehicles are required to provide purchasers and lessors with 1) clear and conspicuous notification of their rescission rights; and 2) a form which clearly explains how to rescind the sale or lease of a motor vehicle.

Appropriation: none

Revenue: none

Fiscal Note: none requested