1   S.135

2   Introduced by Senators Balint, Campion, Hooker and Ingram

3   Referred to Committee on Economic Development, Housing and General
4   Affairs

5   Date: February 27, 2019

6   Subject: Commerce and trade; consumer protection

7   Statement of purpose of bill as introduced: This bill proposes to provide

8   certain protections for a consumer buying or leasing a motor vehicle.

9   An act relating to consumer protection and automobile financing

10   It is hereby enacted by the General Assembly of the State of Vermont:

11   Sec. 1. 9 V.S.A. chapter 58 is added to read:

12   CHAPTER 58: MOTOR VEHICLE CONSUMER PROTECTION

13   § 2321. ENFORCEMENT

14   (a) A person who violates a provision of this chapter commits an unfair

15   and deceptive act in commerce in violation of section 2453 of this title.

16   (b) A consumer who sustains damages or injury resulting from a violation

17   of this chapter may sue and recover for:

18   (1) equitable relief;

19   (2) the greatest of:

20   (A) the amount of his or her damages;

1   (B) the consideration or the value of the consideration given by the

2   consumer; or

3   (C) $500.00 for a first violation, or $1,000.00 for each additional

4   violation;

5   (3) exemplary damages not exceeding three times the value of the

6   amount recovered pursuant to subdivision (2) of this subsection; and

7   (4) if the consumer substantially prevails, his or her costs and

8   reasonable attorney's fees.

9   (c) The Attorney General has the same authority to make rules, conduct

10   civil investigations, and enter into assurances of discontinuance as provided in

11   chapter 63, subchapter 1 of this title.

12   § 2322. DEFINITIONS

13   As used in this chapter:

14   (1) "Consumer" means a person who offers or agrees to buy or lease, or

15   who buys or leases, a motor vehicle from a dealer.

16   (2) "Credit application" means any documents or materials, whether in

17   paper or electronic format that:

18   (A) relate to a consumer's personal information, financial

19   information, credit information, or credit worthiness; and

20   (B) are submitted for the purpose of securing financing for the sale

21   or lease of a motor vehicle to the consumer.

1   (3) "Dealer" means a person engaged in the business of retail selling or

2   leasing new or used motor vehicles in this State.

3   (4) "Financing" means any mechanism used to provide funding for the

4   sale or lease of a motor vehicle, whether or not the funding is made directly to

5   the consumer, and includes a motor vehicle loan, retail installment contract,

6   finance lease, and any assignment of these or similar instruments.

7   (5) "Financier" means a person engaged in the business of providing

8   financing, and includes a bank, credit union, or sales finance company, a

9   dealer that provides financing to consumers, and any assignee of these or

10   similar persons.

11   (6) "Motor vehicle" means a car, truck, van, motorcycle, or similar

12   vehicle with motive power designed primarily for the transportation of one or

13   more passengers.

14   (7) "Retail installment contract" has the same meaning as in

15   subdivision 2351(5) of this title.

16   (8) "Sales finance company" has the same meaning as in

17   subdivision 2351(10) of this title.

18   § 2323. CREDIT APPLICATION; ACCURACY; DUTY TO DISCLOSE

19   (a) A dealer shall not submit to a financier in a credit application any

20   information that:

1   (1) the dealer knows or reasonably should know is false, inaccurate, or

2   misleading; or

3   (2) materially differs from the information provided by a consumer.

4   (b) A dealer shall provide a copy of a credit application to the consumer at

5   the time the dealer submits it to a financier.

6   (c) A financier who receives a credit application shall deliver a copy to the

7   consumer not later than three days after receiving the consumer's request.

8   § 2324. DEALER FINANCE CHARGE PARTICIPATION; PROHIBITION

9   A dealer who submits a credit application to one or more financiers and

10   receives an offer or approval of financing:

11   (1) shall disclose to the consumer the interest rate, terms, and conditions

12   of any offer or approval of financing made by each financier; and

13   (2) in the case of a retail installment contract, shall not mark up by more

14   than two percent the minimum interest rate at which a sales finance company

15   is willing to purchase or assume the retail installment contract.

16   § 2325. DOCUMENTATION FEE; MAXIMUM

17   A dealer may charge a fee for goods and services related to the preparation

18   of documents, not to exceed $150.00.

19   Sec. 2. EFFECTIVE DATE

20   This act shall take effect on July 1, 2019.

Sec. 1. 9 V.S.A. chapter 58 is added to read:

CHAPTER 58. MOTOR VEHICLE SALES, LEASES, AND FINANCING; CONSUMER CREDIT APPLICATIONS

§ 2321. DEFINITIONS

As used in this chapter:

(1) "Consumer" means a person who buys or leases a motor vehicle from a dealer primarily for personal or family use and not primarily for a business, commercial, or agricultural purpose.

(2)(A) "Credit application" means a document that:

(i) summarizes a consumer's personal information, financial information, or credit information;

(ii) is signed by the consumer; and

(iii) is submitted by the dealer to secure financing for a retail installment contract, loan agreement, or lease agreement.

(B) "Credit application" does not mean:

(i) copies of other documents or information exchanged between a dealer and a creditor to secure financing; or

(ii) pay stubs, utility bills, or other documents that a consumer submits to a dealer to verify the accuracy of personal information in a credit application.

(3)(A) "Creditor" means a person engaged in the business of providing financing and includes a financial institution, credit union, sales finance company, lease finance company, a dealer that provides financing to consumers, and an assignee of these or similar persons.

(B) "Creditor" does not include a credit card company.

(4) "Credit union" has the same meaning as in 8 V.S.A. § 30101(5).

(5) "Dealer" means a person engaged in the business of retail selling or leasing new or used motor vehicles in this State.

(6) "Financial institution" has the same meaning as in 8 V.S.A. § 11101(32).

(7) "Financing" means any mechanism used to provide funding for the sale or lease of a motor vehicle, whether or not the funding is made directly to the consumer, and includes a motor vehicle loan, retail installment contract, finance lease, and any assignment of these or similar instruments.

(8) "Lease" has the same meaning as in 9A V.S.A. § 2A-103(1)(j) when a motor vehicle is the goods under the lease.

(9) "Lease finance company" means a person engaged in the business of purchasing or otherwise acquiring motor vehicle leases.

(10) "Motor vehicle" has the same meaning as in subdivision 2351(1)(A) of this title.

(11) "Retail installment contract" has the same meaning as in subdivision 2351(5) of this title.

(12) "Sales finance company" has the same meaning as in subdivision 2351(10) of this title.

§ 2322. CREDIT APPLICATION; COPY TO CONSUMER

(a) A dealer shall provide a copy of the consumer's credit application that is used to secure financing for a retail installment contract, loan agreement, or lease agreement for the sale or lease of a motor vehicle at the time the consumer signs the contract or agreement.

(b) If the sale or lease of a motor vehicle is contingent on multiple consumers signing a retail installment contract, loan agreement, or lease agreement:

(1) a dealer shall provide each consumer with a copy of his or her own credit application; and

(2) a dealer shall not provide a copy of the consumer's credit application to any other person without the consumer's prior written consent.

§ 2323. ENFORCEMENT

(a) A person who violates a provision of this chapter commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

(b) The Attorney General has the same authority to make rules, conduct civil investigations, and enter into assurances of discontinuance as provided in chapter 63, subchapter 1 of this title.

Sec. 2. EFFECTIVE DATE

This act shall take effect on September 1, 2020.