

**MOTOR VEHICLE DEALER DISCLOSURE
REQUIREMENTS AMENDMENTS**

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Dan R. Eastman

House Sponsor: Patrick Painter

LONG TITLE

General Description:

This bill modifies the Motor Vehicle Business Regulation Act by amending provisions relating to motor vehicle dealer disclosure requirements.

Highlighted Provisions:

This bill:

- amends the disclosure language that a motor vehicle dealer is required to provide if the dealer has contracted to enter into a lease agreement with someone other than another dealer.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-3-401.5, as enacted by Laws of Utah 2006, Chapter 59

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **41-3-401.5** is amended to read:

41-3-401.5. Disclosure of financing arrangements relating to the lease of a motor vehicle.

(1) (a) A dealer may not issue a temporary permit or release possession of a motor

30 vehicle wherein the dealer has contracted to enter into a lease agreement to someone other than
31 another dealer unless the contract to enter into a lease agreement contains the disclosure listed
32 in Subsection (2).

33 (b) The disclosure shall be set forth clearly and conspicuously on the first or front page
34 of the contract to enter into a lease agreement, executed by the prospective lessee and the
35 dealer.

36 (2) The form to be used when the dealer contracts to enter into a lease agreement for
37 the potential lease of a motor vehicle shall read as follows:

38 "(1) THE PROSPECTIVE LESSEE OF THE MOTOR VEHICLE DESCRIBED IN
39 THIS CONTRACT TO ENTER INTO A LEASE AGREEMENT HAS EXECUTED THE
40 CONTRACT IN RELIANCE UPON THE DEALER'S REPRESENTATION THAT THE
41 DEALER CAN SECURE FROM A FINANCIAL INSTITUTION FINANCING
42 ARRANGEMENTS FOR THE LEASE OF THE MOTOR VEHICLE. THE PRIMARY
43 TERMS OF THE FINANCING ARRANGEMENT ARE TO BE AS FOLLOWS:

44 TERM BETWEEN ____ MONTHS AND ____ MONTHS. MONTHLY
45 PAYMENTS BETWEEN \$ ____ PER MONTH AND \$ ____ PER MONTH BASED ON
46 A DOWN PAYMENT AND/OR NET TRADE-IN ALLOWANCE OF \$ _____.

47 (2) (a) IF THE DEALER IS NOT ABLE TO SECURE FINANCING
48 ARRANGEMENTS WITHIN THE TERMS DISCLOSED, THEN THE DEALER MUST
49 WITHIN SEVEN CALENDAR DAYS OF THE DATE OF THE CONTRACT TO ENTER
50 INTO A LEASE AGREEMENT MAIL NOTICE TO THE PROSPECTIVE LESSEE THAT
51 THE DEALER HAS NOT BEEN ABLE TO SECURE FINANCING ARRANGEMENTS IN
52 ACCORDANCE WITH THE DISCLOSED TERMS AND THE CONTRACT TO ENTER
53 INTO A LEASE AGREEMENT IS THEREFORE RESCINDED.

54 (b) IF THE DEALER IS NOT ABLE TO SECURE FINANCING ARRANGEMENTS
55 WITHIN THE TERMS DISCLOSED, SUCH FAILURE DOES NOT UNDER ANY
56 CIRCUMSTANCES REQUIRE THE DEALER TO PROVIDE THE FINANCING
57 NECESSARY FOR THE PROSPECTIVE LESSEE TO LEASE THE VEHICLE.

58 (c) IF THE CONTRACT TO ENTER INTO A LEASE AGREEMENT IS
59 RESCINDED, THE PROSPECTIVE LESSEE HAS 48 HOURS FROM RECEIPT OF THE
60 NOTICE TO:

61 (i) RETURN TO THE DEALER THE MOTOR VEHICLE THE PROSPECTIVE
62 LESSEE AGREED TO LEASE;

63 (ii) PAY THE DEALER AN AMOUNT EQUAL TO THE CURRENT STANDARD
64 MILEAGE RATE FOR THE COST OF OPERATING A MOTOR VEHICLE
65 ESTABLISHED BY THE FEDERAL INTERNAL REVENUE SERVICE FOR EACH MILE
66 THE MOTOR VEHICLE HAS BEEN DRIVEN WHILE IN THE PROSPECTIVE LESSEE'S
67 POSSESSION; AND

68 (iii) COMPENSATE THE DEALER FOR ANY PHYSICAL DAMAGE TO THE
69 MOTOR VEHICLE WHILE THE VEHICLE WAS IN THE PROSPECTIVE LESSEE'S
70 POSSESSION.

71 (3) IN RETURN, UPON RECEIPT OF THE ITEMS SET FORTH IN (2)(c)(i), (ii),
72 and (iii) THE DEALER SHALL RETURN TO THE PROSPECTIVE LESSEE ALL
73 PAYMENTS OR OTHER CONSIDERATION PAID BY THE PROSPECTIVE LESSEE,
74 INCLUDING ANY DOWN PAYMENT AND ANY MOTOR VEHICLE TRADED IN.

75 (4) IF THE TRADE-IN HAS BEEN SOLD OR OTHERWISE DISPOSED OF
76 BEFORE THE CONTRACT TO ENTER INTO A LEASE AGREEMENT IS RESCINDED,
77 THEN THE DEALER SHALL RETURN TO THE PROSPECTIVE LESSEE A SUM
78 EQUIVALENT TO THE ALLOWANCE TOWARD THE LEASE PRICE GIVEN BY THE
79 DEALER FOR THE TRADE-IN, AS NOTED IN THE CONTRACT TO ENTER INTO A
80 LEASE AGREEMENT.

81 _____
82 (Signature of the Prospective Lessee)

83 _____
84 (Signature of the Dealer)"

85 (3) (a) (i) In addition to the penalties in this chapter, if the disclosure in Subsection (2)

86 is not properly executed or if the dealer is unable to secure financing arrangements for the lessee
87 as provided in Subsection (2) within seven calendar days immediately following the date
88 disclosed on the contract to enter into a lease agreement, then in either case the prospective
89 lessee may return the motor vehicle to the dealer and receive a complete refund of all money
90 and other consideration given to the dealer for the contract to enter into a lease agreement,
91 including any motor vehicle or property used as a trade-in.

92 (ii) If the motor vehicle or property used as a trade-in has been sold or otherwise
93 disposed of, the dealer shall return to the prospective lessee the amount of money equivalent to
94 the allowance towards the lease price given by the dealer for the motor vehicle or property
95 traded in, as noted in the contract to enter into a lease agreement.

96 (b) If the dealer provides the notice as set forth in Subsection (2)(a) of the disclosure
97 statement, the contract to enter into a lease agreement is rescinded.

98 (c) If a contract to enter into a lease agreement is rescinded under Subsection (3)(b):

99 (i) the prospective lessee shall return the leased vehicle within 48 hours of receiving a
100 notice that the dealer is unable to secure financing arrangements for the lease; and

101 (ii) the prospective lessee is liable to the dealer:

102 (A) for all physical damage to the motor vehicle while in the possession of the
103 prospective lessee; and

104 (B) in an amount equal to the current standard mileage rate for the cost of operating a
105 motor vehicle established by the federal Internal Revenue Service for each mile the motor
106 vehicle was driven between the date the prospective lessee first acquired possession and the
107 date when the prospective lessee returned the motor vehicle to the dealer.

108 (4) (a) A dealer who has complied with Subsection (2), but who has not been able to
109 secure financing arrangements as set forth in the disclosure, shall within seven days of the date
110 of the contract to enter into a lease agreement mail written notice to the prospective lessee:

111 (i) disclosing that the dealer has not been able to secure financing arrangements as set
112 forth in the disclosure; and

113 (ii) instructing the prospective lessee of the prospective lessee's responsibility to return

114 the vehicle within 48 hours of receiving the notice, as provided for in Subsection (2).

115 (b) (i) The dealer shall mail notification to the prospective lessee within seven calendar
116 days following the date that the contract to enter into a lease agreement was executed.

117 (ii) A notice complies with Subsection (4)(b)(i) if it is postmarked before the end of the
118 seventh day following the date that the contract to enter into a lease agreement was executed
119 and addressed to the prospective lessee at the address contained in the contract to enter into a
120 lease agreement.

121 (iii) If the prospective lessee's address is not contained on the contract to enter into a
122 lease agreement, then proof of compliance with the notification provision of this Subsection
123 (4)(b) shall be borne by the dealer.

124 (iv) If a dealer gives notice in the manner prescribed, the prospective lessee has 48
125 hours from receipt of the notice to return the vehicle to the dealer.

126 (c) If a dealer executes the disclosure required by Subsection (2), but is not able to
127 secure financing arrangements as set forth in the disclosure, and the dealer fails to give written
128 notice to the prospective lessee within seven days, as provided for in Subsections (4)(a) and (b),
129 then the prospective lessee shall return the vehicle within 48 hours of the date the prospective
130 lessee first learns that the dealer has not been able to secure financing arrangements as set forth
131 in the disclosure.

132 (5) (a) Either the prospective lessee or a dealer may bring an action to enforce
133 contractual or statutory rights under this section.

134 (b) The prevailing party in an action under Subsection (5)(a) is entitled to reasonable
135 ~~[attorneys']~~ attorney fees as part of the costs of the action.

136 (6) A motor vehicle returned by the prospective lessee to the dealer in accordance with
137 the rescission provisions of this section is not considered leased for purposes of sales and use
138 tax under Title 59, Chapter 12, Sales and Use Tax Act.